



UNHCR
The UN Refugee Agency

BRAZIL PLAN OF ACTION FIRST TRIENNIAL PROGRESS REPORT 2015-2017



**BRAZIL PLAN OF ACTION
FIRST TRIENNIAL
PROGRESS REPORT
2015-2017**

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List of Acronyms

Throughout the Report the following acronyms have been used.

ANRLA	The Americas Network for Refugee Legal Aid
BID	Best Interest Determination
BPA	Brazil Plan of Action
CANAF	The Assistance Centers for Childhood, Adolescence and Family (El Salvador) (for its acronym in Spanish)
CARICOM	Caribbean Community
CIPPDV	Commission for the Protection of Persons Displaced by Violence (Honduras) (for its acronym in Spanish)
CLARCIEV	Latin American and Caribbean Council of Civil Registry, Identity and Vital Statistics (for its acronym in Spanish)
CMC	Caribbean Migration Consultations
COMAR	National Commission on Refugee Aid (Mexico) (for its acronym in Spanish)
CONARE	National Refugees Eligibility Commissions (for its acronym in Spanish)
CoS	City of Solidarity
CRRF	Comprehensive Refugee Response Framework
CRPSF	Comprehensive Regional Protection and Solutions Framework
ERCM	Emerging Resettlement Countries Joint Support Mechanism
ESME	Special Migratory Situations Team (for its acronym in Spanish)
GCR	Global Compact on Refugees
GRSI	Global Refugee Sponsorship Initiative
IACHR	Inter-American Commission on Human Rights
IACtHR	Inter-American Court of Human Rights
IDPs	Internally Displaced Persons
INM	National Institute for Migration (Mexico) (for its acronym in Spanish)
IOM	International Organization for Migration
IPPDH	Institute of Public Policies on Human Rights for MERCOSUR (for its acronym in Spanish)
LEPINA	Law for the Comprehensive Protection of Children and Adolescents (El Salvador) (for its acronym in Spanish)
LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersex persons
MIRPS	Comprehensive Regional Protection and Solutions Framework (for its acronym in Spanish)
NCA	North of Central America
OAS	Organization of American States
OB-SICA	Observatory and Index on Democratic Security, within SICA
OLAV	Local Assistance Offices for Victims (El Salvador) (for its acronym in Spanish)
ONPAR	National Office for Assistance to Refugees (Panama) (for its acronym in Spanish)
PRIMES	UNHCR Population Registration and Identity Management EcoSystem
PTA	Protection Transfer Arrangement
QAI	Quality Assurance Initiative
RCM	Regional Conference on Migration
Red Ana	Americas Network on Nationality and Statelessness (for its acronym in Spanish)
RRTM	Regional Refugee Transfer Mechanism
RSD	Refugee Status Determination
RSSN	Regional Safe Spaces Network
SOPs	Standard Operating Procedures
SGBV	Sexual and Gender-Based Violence
SG-SICA	General Secretariat of the Central America Integration System
SICA	Central America Integration System (for its acronym in Spanish)
SISCONARE	Interoperable registration systems between different state entities providing protection
UAC	Unaccompanied Children
UASC	Unaccompanied and Separated Children

Children play with modeling clay at The Migrant house in Izabal, Guatemala, close to the Honduran border. © UNHCR/Santiago Escobar-Jaramillo

Foreword

Every day, thousands of men, women and children make one of the most difficult choices in life - to leave behind all that is dear to them and flee in search of safety. They are forced from their homes and countries by conflict, violence and persecution. Many are propelled into long and dangerous journeys, in the hands of smugglers and traffickers.

They are one of the most visible signs that we live in a world where making peace has become very difficult. In the absence of effective action to prevent and resolve conflicts, their exile often extends for years on end. And around the world, countries which are neighbours to crisis zones are struggling to absorb the social, economic and political shocks of these movements.

It is timely to take stock of the rich experience and many innovative good practices developed in Latin America and the Caribbean, with a particular focus on the Brazil Declaration and Plan of Action, as important contributions to the process leading to the Global Compact on Refugees.

This stock taking is important and exciting. For decades, the countries of Latin America and the Caribbean have made fundamental contributions to the pursuit of protection and solutions for millions of refugees, internally displaced and stateless people. The Cartagena Declaration, and the regional instruments that it has inspired, are an example to the world. And the commitment to solidarity and responsibility sharing that has driven this region's response to refugee flows has also been crucial in shaping the New York Declaration on Refugees and Migrants, adopted by the UN General Assembly in September 2016.

The New York Declaration is – I believe – groundbreaking. At a time when the principles and standards of refugee protection are being called into question by some, it marks an important reaffirmation of the international protection regime, founded on cooperation and shared responsibility. It calls for a more comprehensive response to large-scale refugee flows, and provides a new model that is now being applied in more than a dozen countries, including in this region.

The next step is to reinforce this model through predictable, sustainable mechanisms, agreed by all. This is the purpose of the Global Compact on Refugees, which UNHCR was asked to develop together with States and other stakeholders, and which will be adopted later this year.

The Americas region is providing leadership in relation to solutions – a key aspect of my own mandate as High Commissioner for Refugees, and of the New York Declaration and the future Global Compact.

There are more success stories of refugee inclusion and local integration in this region than anywhere else in the world. I have seen it myself in my visits in the past two years. Many countries in the Americas are showing how refugees can be supported through alliances involving local municipalities, the private sector and refugees themselves. You have been pioneers in granting asylum seekers the right to work, and providing access to national health, education and housing programmes and other services.

And your commitment is an example to the world. As we move forward together with our work to translate the New York Declaration into practical, predictable and sustainable mechanisms, our efforts will be inspired by the moral authority and leadership which you exercise every day in responding to the plight of those forced to abandon their homes.

Filippo Grandi, UN High Commissioner for Refugees

Extracts from the Opening Statement at the Consultation Meeting of Latin America and the Caribbean as a Regional Contribution to the Global Compact on Refugee, February 2018.

The full text of the High Commissioner's speech can be accessed in the following link:

<http://www.acnur.org/admin/hcspeeches/5ab15db54/discurso-de-apertura-del-alto-comisionado-de-las-naciones-unidas-para-los.html>

Prologue

Three years have elapsed since the adoption of the Brazil Declaration and Plan of Action (BPA). This can be a relatively short or long time, depending on perspectives. It can be indeed a brief time span to mobilize efforts, prepare the institutional machinery and engage in reforms for such a high number of states that have embraced so many goals, programs and commitments under the BPA, and steam ahead towards their realization. Yet, in this seemingly short period, there was a remarkable deployment of collective endeavours to advance in the establishment and consolidation of the high standards of protection and solutions that Latin America and Caribbean countries have set for themselves.

This first triennial evaluation report on the implementation of the BPA testifies to these developments. There is a great variety of areas where improvement was recorded, including in granting access to asylum, adopting alternative legal pathways to admission and stay, strengthening local integration, or steadily moving closer to the eradication of statelessness in the region.

However, if we look back at the picture of Latin America and the Caribbean just three years ago, it seems that we are today in a different era. People on the move in need of international protection have grown exponentially since 2014 in the region. The number of individuals that were forcibly displaced either within their countries of origin or in neighbouring countries, as well as those coming from outside the Americas fleeing persecution, conflict and violence increased in this period by almost four times and this flow is still multiplying unabatedly.

States are facing unprecedented pressures to provide protection and solutions responses while attempting to comply with the targets set by the BPA. During the evaluation process, Latin America and Caribbean countries recognized that there is still much work ahead to consolidate and enhance protection frameworks and strengthen regional solidarity and cooperation, especially in the areas of granting access to territory and protection, identification and referral of people with specific needs, fostering local integration and other solutions avenues and combating rising trends in xenophobia and discrimination vis-à-vis persons of concern.

UNHCR can only but reiterate the offer to support BPA countries in continuing on the path they have engaged, and stand behind them ensuring that they will not be overwhelmed by the current situation, but rather take extra steps to showcase global leadership and continue in the tradition of openness, humanitarianism, shared responsibility and full respect of the human rights of those in need.

In its essence, the BPA represents the embodiment of virtually all aspects of what today were the elements of consultations for the adoption of the Global Compact on Refugees (GCR), which in turn is based on the Comprehensive Refugee Response Framework (CRRF) set out in the historic New York Declaration for Refugees and Migrants of September 2016. The BPA evaluation process significantly contributed to those discussions, presenting at the culmination of such regional appraisal, the '100 Points of Brasilia' encompassing a great number of good practices that were considered in the final version of the GCR to be adopted in September 2018.

In the region, the BPA served as a backbone structure to prepare states to absorb new challenges, showing readiness to face this new context, in the same vein as the GCR will do at global level. This is already a major positive outcome of this evaluation process. Three years from now, we will be just a bit more into the mid-term review of the progress made under the BPA. UNHCR encourages Latin American and Caribbean countries to keep the compass focused on the extraordinary road map that is the BPA and continue this common journey to the ultimate goal of protecting and finding solutions for the millions of asylum-seekers, internally displaced, returned or stateless individuals that seek protection in the Americas.

Renata Dubini, Director of UNHCR's Regional Bureau for the Americas

Executive summary

The First Triennial Progress Report analyzes - within the framework of the 2014 Brazil Plan of Action (BPA) - measures implemented by the States in strengthening the protection and promoting solutions for asylum-seekers, refugees, displaced and stateless persons in Latin America and the Caribbean, within the pre-defined timeframe of 2015-2017.

This progress Report draws from the outcome of *ad-hoc* questionnaires and indicators that have been circulated among countries, as well as from the conclusions of national, regional and thematic Consultations.¹ Built around the six areas and the eleven programs of the BPA, the Report examines the evolution of national asylum systems in the region, the efforts to eradicate statelessness, as well as protection and solutions responses, in the last three years. It offers a qualitative assessment of progress made, featuring details of national and regional achievements, presenting in-depth analysis of selected best practices, illustrating challenges and setting priorities identified during the Consultations.

The Report is divided into nine Sections. An introductory Section recalls the BPA process, describes the methodology used for the evaluation, and outlines new regional displacement trends, as well as the protection and solutions context. Sections II to VII discuss progress made, good practices, challenges and priorities, following the BPA structure. Section VIII provides a crosscutting overview on developments in the area of management of special protection needs. Finally, Section IX offers a recapitulation of main achievements and final recommendations, paving the way for the next three years of implementation of the BPA.

A glimpse of the areas of main achievements

Section II, main achievements in the field of Quality of Asylum:



Section III, developments in the field of Durable Solutions, Local Integration and Resettlement:

- Expedited individual, non-discriminatory documentation process, without mention of refugee status, ensuring access to work and basic services
- Innovative practices such as community and private sponsorships initiatives and “rural resettlement” initiatives
- The facilitated process for permanent residence and naturalization
- Achievements in the area of Solidarity Resettlement, including arrangements such as the Protection Transfer Arrangement

¹ See § 1.2.2.

Sections IV and V, positive results in the North of Central America and the Caribbean respectively:

<p>North of Central America:</p>	<ul style="list-style-type: none"> • Strengthened regional cooperation and enhanced protection through the Comprehensive Regional Protection and Solutions Framework (MIRPS for its acronym in Spanish) • Progress made in the conceptualization of the “Human Rights Observatory on Displacement”, in the “Prevention Program”, on protection of victims and displaced persons, as well as in initiatives of assistance to victims of violence perpetrated by criminal organized groups
<p>Caribbean:</p>	<ul style="list-style-type: none"> • Enhanced cooperation among Caribbean countries, with the establishment of the Caribbean Migration Consultations (CMC) and through regular meetings of Chief Immigration Officers Plans for the progressive establishment of asylum systems in the sub-region

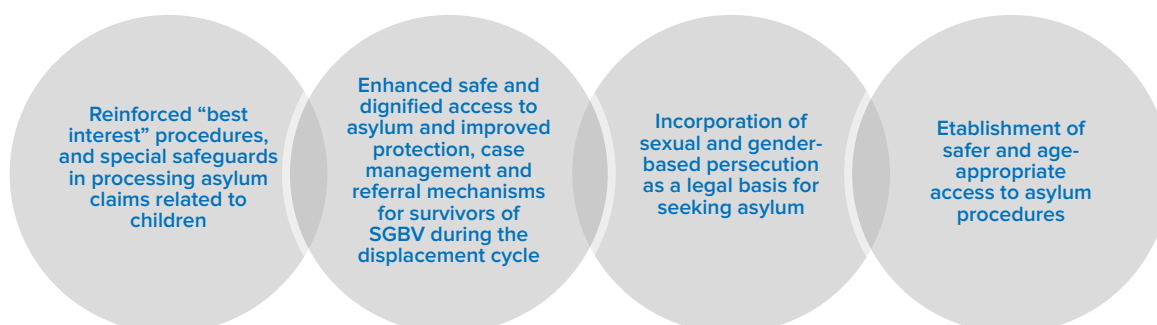
Section VI, achievements with respect to Statelessness:

- Six countries acceded or approved accession to one or both Conventions on Statelessness
- A few countries reformed nationality laws to end gender-based discrimination and to eliminate requirements for the acquisition of nationality
- Policy reforms related to protection of stateless persons, facilitated access to naturalization, improved birth registration systems - including late registration - and confirmation of nationality

Section VII - Highlights of main initiatives that enhanced regional cooperation:

- The commitments of the Regional Conference on Migrations to establish a regional network on protection of migrant and refugee children and adolescents
- The commitment of the Organization of American States on Statelessness
- The creation of regional networks of academia, legal clinics, and civil society organizations, including the Americas Network on Nationality and Statelessness, the Americas Network for Refugees Legal Aid and the Regional Safe Spaces Network
- Coordination mechanisms among the Presidents of National Eligibility Commissions for Refugees for the MERCOSUR and Associated States area and the Mesoamericans National Refugees Eligibility Commissions
- The rollout of UNHCR’s Population Registration and Identity Management EcoSystem (PRIMES)

Section VIII, analyzes developments in the area of special protection needs:



Section I

INTRODUCTION

1. Introduction

1.1. Background Information

On 3 December 2014, twenty-eight States and three overseas territories of Latin America and the Caribbean unanimously adopted the Brazil Declaration and Plan of Action (BPA)² as the conclusion of the process commemorating the 30th anniversary of the 1984 Cartagena Declaration on Refugees. Drawing from previous regional frameworks, including the 1994 San José Declaration³ and the 2004 Mexico Declaration and Plan of Action⁴, the 2014 BPA aimed to respond to new international protection challenges and to identify solutions for asylum-seekers, refugees, displaced and stateless persons in Latin America and the Caribbean for the next ten years.

In setting out concrete steps towards the agreed targets, the BPA represents a groundbreaking, strategic and pragmatic tool that contains eleven strategic programs incorporated into six focus areas: Quality of Asylum, Durable Solutions, Solidarity with North of Central America, Solidarity with the Caribbean, Statelessness, and Regional Cooperation.

An important innovative element of the BPA was the establishment of a periodic review of its implementation (Chapter 8, Implementation and Follow-up), consisting in triennial progress reports, on the basis of which a final report will be presented at the end of the Plan of Action's period.⁵

² See Brazil Declaration and Plan of Action, A Framework for Cooperation and Regional Solidarity to Strengthen the International Protection of Refugees, Displaced and Stateless Persons in Latin America and the Caribbean, 3 December 2014, available at: <http://www.refworld.org/docid/5487065b4.html>

³ San José Declaration on Refugees and Displaced Persons, 7 December 1994, available at: <http://www.refworld.org/docid/4a54bc3fd.html>

⁴ 2004 Mexico Declaration and Plan of Action to Strengthen the International Protection of Refugees in Latin America, 6 November 2004, available at: <http://www.refworld.org/docid/424bf6914.html>

⁵ Chapter 8, para 3 indicates that: "UNHCR, as requested by the States adopting this Plan of Action, will produce triennial progress reports on the basis of which it will present a final report at the end of the duration of this Plan of Action". See above note 2.

1.2. Methodology of the evaluation process

In 2017 - in accordance with the letter of Chapter 8 - UNHCR started the first triennial evaluation of the BPA through a series of consultations based on tailored questionnaires and indicators, national roundtables as well as the organization of two regional and three thematic Consultations, which culminated in the Regional Conference held in Brasilia on 19-20 February 2018. The BPA evaluation process gave impetus to regional cooperation, created momentum and elevated regional good practices to the discussions taking place at the global policy level, including the Global Compact on Refugees.⁶

1.2.1. Questionnaires and indicators system

With a goal of evaluating the first three years of the BPA and assessing the level of progress made in both policies and legislation, States were asked to select priority areas based on the six chapters and the eleven programs of the BPA and to report on their implementation. In addition, UNHCR together with the Institute of Public Policies on Human Rights for MERCOSUR (IPPDH, for its acronym is Spanish) developed a system of indicators for monitoring the implementation of the different programs of the BPA. These indicators were presented and adopted for validation at the Meeting of National Commissions for Refugees (CONARES, for its acronym is Spanish) of MERCOSUR and its associated States,⁷ to be used for national consultations, based on selected programs.

In addition, to help gathering information, UNHCR, together with the IPPDH developed a series of targeted questionnaires related to BPA programs of: Quality of Asylum, Borders of Solidarity, Local Integration, Solidarity Resettlement, Voluntary Repatriation, Alternative Legal Paths to Protection, and the Eradication of Statelessness. Another set of comprehensive questionnaires were created to assess the level of implementation in Caribbean countries.

The information gathered during the evaluation process acted as a catalyst for the consolidation of information regarding the progress made and creating an enabling environment for further discussions on policy changes. The surveyed data turned into an effective means to monitor adopted measures, promote interventions, and improve accountability. By encouraging the identification of challenges and good practices in the fulfillment of the objectives traced in the BPA, the evaluation process helped as well to promote human rights standards in the region.

UNHCR received responses from twenty-three countries and overseas territories of Latin America and the Caribbean. Many other countries contributed to the assessment by participating in and contributing to regional, thematic and sub-regional Consultation meetings.

1.2.2. Regional and Thematic Consultations

Two sub-regional and three regional thematic Consultations were held with a goal of preparing the first progress report (2015-2017). Sub-regional meetings focused on the specific situations impacting

⁶ See § 1.3.1.

⁷ MERCOSUR/RM/CONARES/ACTA N ° 02/17.

the North of Central America and the Caribbean. The objectives of the three thematic Consultations were: i) assessing the progress made, at national and regional level; ii) encouraging the exchange of good practices and lessons learned; iii) identifying remaining challenges, main priorities and areas where greater dedication and international cooperation is required. Discussions were built around three guiding questions: What good practices or lessons learned could countries share in relation to progress registered? Which are the persisting challenges? What kind of actions require greater cooperation and technical advice from UNHCR, or international funding?

- The first sub-regional meeting took place in San Pedro Sula, Honduras: five Central American States (Belize, Costa Rica, Guatemala, Honduras, and Panama) and Mexico, following the priorities highlighted in Chapter 4 of the BPA, adopted the San Pedro Sula Declaration⁸ and agreed to working on the implementation of the Comprehensive Regional Protection and Solutions Framework (MIRPS, for its acronym in Spanish);⁹
- The second and third regional thematic meetings, held in Buenos Aires, Argentina on 2-3 November 2017, discussed two thematic programs of the BPA: Quality of Asylum (Chapter 2) and Eradication of Statelessness (Chapter 6);¹⁰
- A fourth regional thematic meeting was held in Quito, Ecuador on 13-14 November 2017 and focused on Comprehensive, Complementary and Sustainable Solutions, in particular local integration, with the participation of municipalities that have adopted best practices in this program;¹¹
- The fifth and last sub-regional meeting was held in Nassau, The Bahamas, on 5-6 December 2017, at the Second Meeting of the Caribbean Migration Consultations (CMC). On this occasion, participants reviewed the program of Solidarity with the Caribbean region (Chapter 5) of the BPA.¹²

1.2.3. The Brasilia Conference

The evaluation process culminated in the “Consultation Meeting of Latin America and the Caribbean as a Regional Contribution to the Global Compact on Refugees” (‘the Brasilia Meeting’), held in Brasilia, Brazil, on 19-20 February 2018, organized by the Government of Brazil with the support of UNHCR, and with the participation of representatives from thirty-five countries (States and overseas territories) from Latin America and the Caribbean.¹³ The Brasilia meeting also benefited from the

8 San Pedro Sula Declaration as a Regional Contribution to the Global Compact on Refugees, 27 October 2017, available at: <http://www.acnur.org/fileadmin/Documentos/BDL/2017/11337.pdf>

9 MIRPS, a Regional Application of the CRRF, available [in Spanish] at: <http://www.acnur.org/fileadmin/Documentos/BDL/2017/11415.pdf>, see also § 4.2.

10 Brazil Plan of Action Thematic Consultations for the Elaboration of a Triennial Progress Report Programs on Quality of Asylum and Eradication of Statelessness Buenos Aires, 2 - 3 November 2017, available at: <http://www.acnur.org/fileadmin/Documentos/BDL/2018/11477.pdf>

11 Regional Consultation for the Elaboration of the Triennial Progress Report Brazil Plan of Action, Chapter Eight Comprehensive and durable Solutions Program Quito, 13-14 November 2017, available at: <http://www.acnur.org/fileadmin/Documentos/BDL/2018/11486.pdf> and Regional Discussion on the Program “Cities of Solidarity” Quito, 13-14 November 2017, available at: <http://www.acnur.org/fileadmin/Documentos/BDL/2018/11488.pdf>

12 Regional Consultation for the elaboration of the triennial progress report of The Brazil Plan of Action, Chapter 5 “Solidarity with Caribbean” Caribbean Migration Consultations (CMC) Nassau, The Bahamas, 4-6 December 2017, available at: <http://www.acnur.org/fileadmin/Documentos/BDL/2018/11495.pdf>

13 Antigua and Barbuda, Argentina, Aruba, The Bahamas, Barbados, Belize, Bolivia, Brazil, Cayman Islands, Chile, Colombia, Costa Rica, Cuba, Dominican republic, Ecuador, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Montserrat, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Turks and Caicos, Uruguay and Venezuela.

participation of observing countries,¹⁴ regional,¹⁵ international,¹⁶ and civil society organizations,¹⁷ as well as a person of concern of UNHCR.¹⁸ The outcome of the Brasilia meeting was the adoption by acclamation of the document “100 Points of Brasilia”¹⁹ proposing one-hundred outstanding regional good practices that emerged from the BPA evaluation process, as a regional contribution to the Global Compact on Refugees.²⁰ The document includes the following priorities:

the engagement with all relevant sectors and actors of society; the improvement of reception and admission arrangements; the importance of data collection; the involvement of local communities in the active search for durable solutions; and the establishment of alternative ways of admission and stay for those in need of international protection.



Brazil. Representatives from 36 countries and territories, civil society and academia were in Brasilia, Brazil, to attend to the Consultation Meeting of Latin America and the Caribbean as a Regional Contribution to the Global Compact on Refugees. © UNHCR/Luiz Fernando Godinho

1.3. The new regional context

During the first three years of the implementation of the BPA, the socio-economic context and the political landscape of the region went through major changes, further compounded by the ongoing exponential increase in the number of persons seeking protection.

The escalation of the number of people compelled to leave their homes is due to multifaceted dimensions that include widespread violence, natural disasters, unrest, armed confrontations and social conflicts that involve lack of access to basic services, food, and medical treatment, coupled with the more general lack of opportunities. Risks related to child protection and Sexual and Gender-Based Violence (SGBV) continue to be an alarming dimension of forced displacement

14 Canada, Holy See, the Netherlands, Portugal, Russia, Spain, Sweden, Switzerland, the UK, and the USA.

15 EU, IPPDH-Mercosur, Inter-American Commission for Human Rights.

16 UN Resident Coordinator in Brazil, ECLAC, FAO; ICRC, IOM, UNDP, UNFPA, WFP, UNICEF, UNESCO, UNODC.

17 Argentina Commission for refugees and Migrants, Caritas Brazil, Caritas Sao Paulo, Institute for Migration and Human Rights (Brazil); University of Brasilia, Conectas (Brazil), CODHES (Colombia); Latin America Network of Legal Clinics (Costa Rica); Asylum Access- Regional (Ecuador); CRISTOSAL (El Salvador); Alaide Foppa Refugee Clinic (Ibero-America University); International Detention Coalition (Mexico), Sin Fronteras (Mexico); Norwegian Refugee Council (Panama), RET International (Panama); Living Water Community (Trinidad and Tobago); Servicio Ecuemenico para la Dignidad Humana (Uruguay); CEJIL – Red Ana (USA); HIAS (USA).

18 Ms Maha Mamo, a stateless person living in Brazil.

19 “The 100 Points of Brasilia: Inputs from Latin America and the Caribbean to the Global Compact on Refugees” 20 February 2018, available at <http://www.acnur.org/fileadmin/Documentos/BDL/2018/11590.pdf>

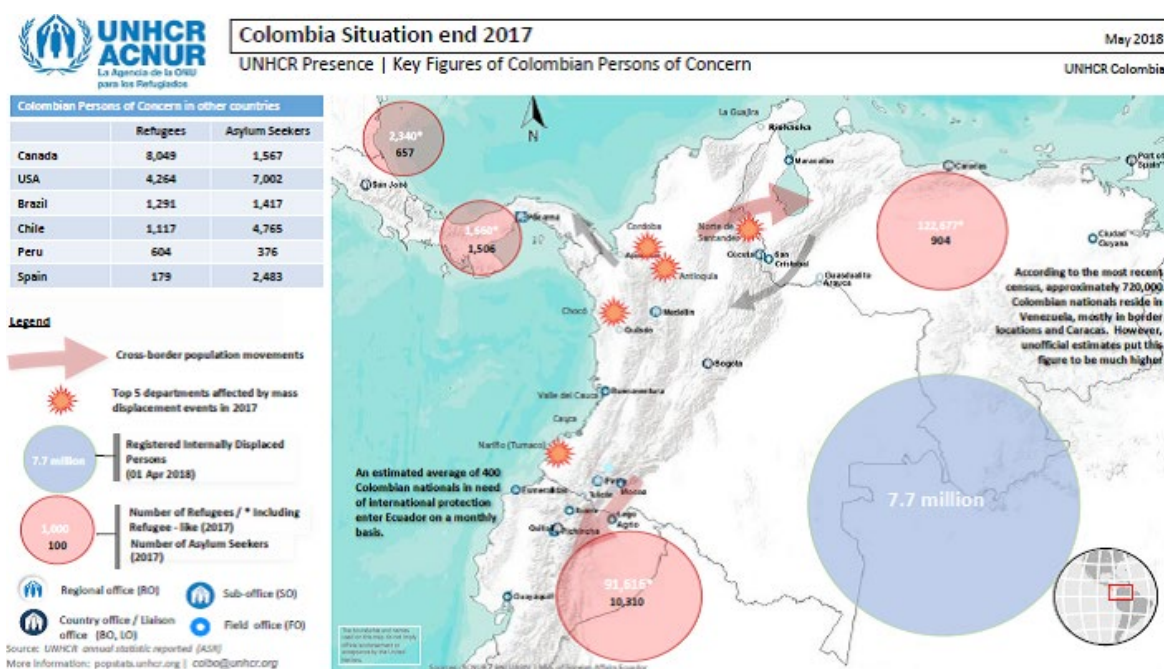
20 See 1.3.1.

in region. In addition, humanitarian crisis elsewhere in the world are forcing people from other regions to seek asylum in Latin America and the Caribbean.

Lastly, fierce natural disasters, such as the wild fires, landslides, floods, earthquakes and deadly hurricanes that particularly affected the Caribbean, have intensified displacement and jeopardized the response capacity of governments. For example, the earthquake in Mexico, in September 2017, hit the infrastructures of the National Commission on Refugee Aid (COMAR), generating a significant increase in the backlog of pending cases. The 2017 hurricane season has caused unprecedented levels of devastation across the Caribbean. As a consequence of the unpredictability of these events, the lack of adequate response capacity from States, and the absence of protection mechanisms for persons displaced due to natural disasters, neighboring countries have nevertheless admitted these populations in their territories, although with very limited access to rights in some cases.

1.3.1. Major changes and events, 2015-2017

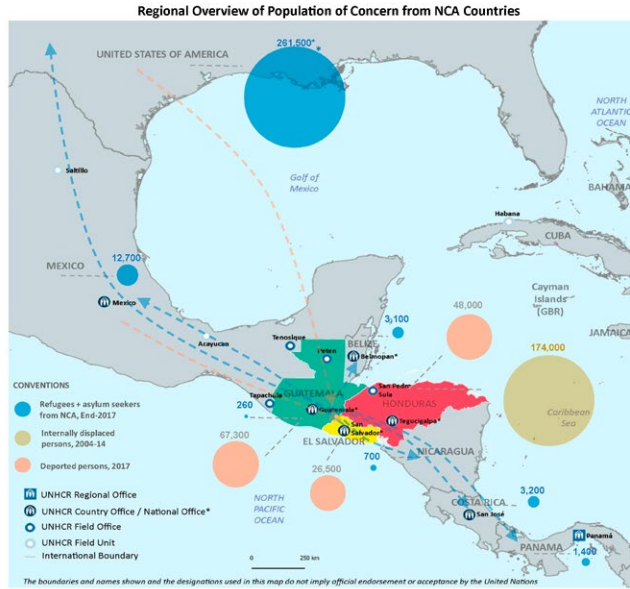
Following the signature of the peace agreement between the Revolutionary Armed Forces of Colombia (FARC for its acronym in Spanish) and the Government of Colombia in November 2016, the FARC began disarming and reintegrating into civilian communities in August 2017; however, the Peace Agreement has not completely halted forced displacement due to other illegal armed groups resorting to violence and triggering displacement in remote border areas.²¹ In addition, peace talks are currently undergoing with the National Liberation Army (ELN for its acronym in Spanish); however, the pace of these negotiations is relatively slow and the outcome still uncertain. Although the Peace Agreements in Colombia may create or reinforce opportunities for comprehensive solutions as envisaged by the BPA, the humanitarian situation remains challenging.



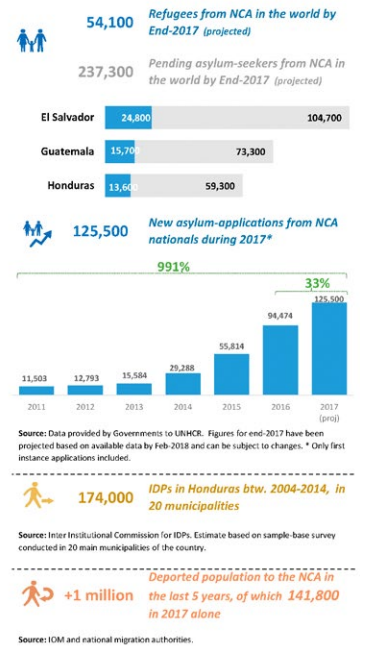
21 Executive Committee of the High Commissioner's Program, Standing Committee, 71st Meeting, 'Update on UNHCR's operations in the Americas', 5 March 2018, available at <http://www.unhcr.org/5a9fdd147.pdf>

Forced displacement in and from the North of Central America (NCA) continued to increase in the period under consideration. In 2017, some 105,000 new asylum applications by nationals from countries in the NCA were registered in neighboring countries, 38 percent higher than during the same period in 2016.²² Recent regional political developments, coupled with greater migratory controls and checkpoints on traditional routes, have changed displacement patterns and resulted in growing numbers of asylum claims lodged in countries such as Guatemala and Mexico. Whereas displacement in and from the NCA is multidimensional, violence and insecurity continue to be major factors compelling people to move.

North of Central America (NCA) Situation: Key Population Figures in the Region during 2017

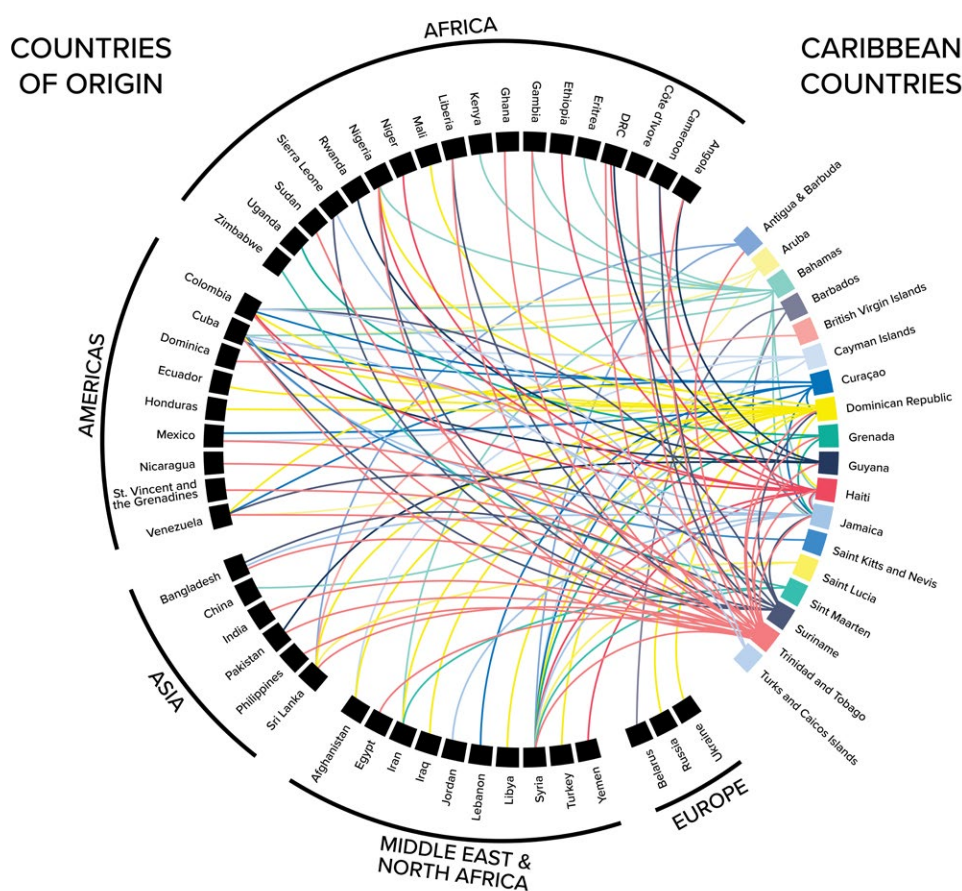


Elaboration: February 2018. Author: UNHCR-ROPAN



In the past few years, the emergence of political tensions and the deterioration of the socioeconomic situation in Venezuela, coupled with the lack of access to medicine, health care and other basic necessities, triggered an outflow of an estimated 1.5 million²³ Venezuelans to neighboring countries and beyond. Despite the efforts to generously meet the needs of influxes of Venezuelans, host communities are under increasing strain in trying to extend assistance and services to those arriving. The magnitude of the outflow of Venezuelan nationals seeking international protection has significantly impacted the ability of asylum systems in the region to address the increase of asylum applications.

22 Ibid.
23 Ibid.



The protection context in the Caribbean remains extremely diverse, as the Caribbean is a region of origin, transit and increasingly also a region of destination for migrants and refugees. Mixed migration movements in the region involve many categories of vulnerable persons, including persons who may be in need of international protection such as asylum-seekers, refugees, stateless persons and victims of human trafficking, along with other categories of migrants. With its vast and permeable maritime borders, the Caribbean is particularly vulnerable to significant migration movements, including those related to climate change and natural disasters. The Caribbean Migration Consultations presents new opportunities for achieving coordinated, rights-based and effective management of issues related to forced displacement and migration in the region.

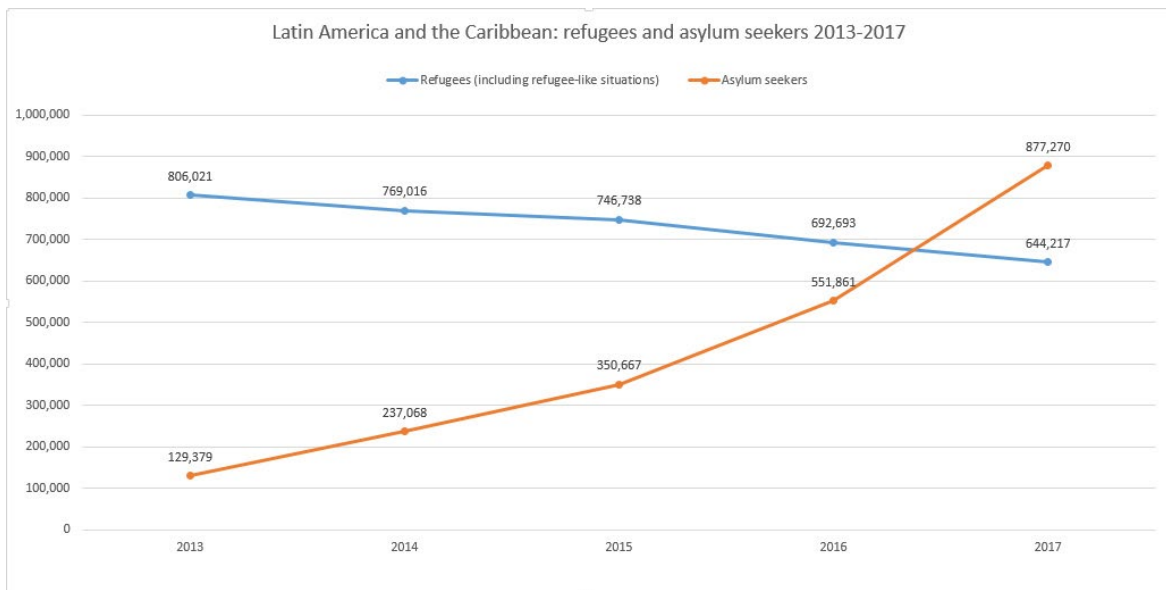
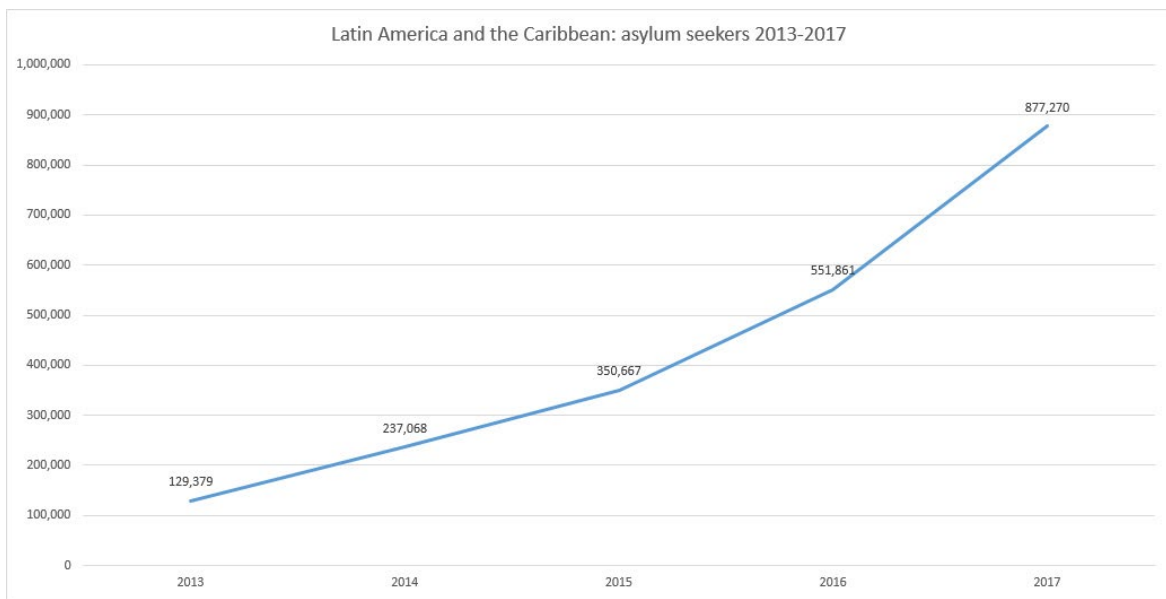
In the Southern Cone, countries continue to set an example as emerging resettlement options for families affected by the conflict in Syria and by widespread violence in the NCA. With solidarity resettlement, private sponsorship programs, and alternative paths for admissions and stay, the MERCOSUR area remains a protection space for displaced persons.

At global policy level, the United Nations General Assembly adopted a set of commitments in September 2016 to enhance protection of refugees and migrants, known as the New York Declaration for Refugees and Migrants (New York Declaration). Through the New York Declaration, States committed to protecting those forced to flee from violence and persecution and recognized the need to develop a more equitable and foreseeable global approach to address large movements, especially through enhanced cooperation and partnerships. A Global Compact on Refugees (GCR), setting out a specific predictable agenda for refugees' protection, will be presented to the General Assembly in 2018.

These global initiatives were endorsed by Latin America and the Caribbean and, in turn, translated into regional initiatives such as the above-mentioned MIRPS²⁴ (as a regional application of the Annex I of the New York Declaration) and “The 100 points of Brasilia”²⁵ that complements and build on the Program of Action of the GCR.

Trend Analysis of Refugees and Asylum Seekers UNHCR Americas

As of year-end 2017. Source: UNHCR



24 See § 4.2.

25 See § 1.2.

Section II

QUALITY OF ASYLUM

2. Quality of asylum

2.1. Reference to the BPA

Chapter 2 of the BPA, after recognizing that “most of the countries have incorporated in their legislation high international protection standards and have established refugee status determination bodies and procedures within a solid legal framework relating to refugees”, encourages States to improve eligibility procedures, strengthen the capacity and knowledge of asylum authorities, including in regard to registration, referral mechanisms and issuance of documentation, and to introduce efficient procedures and case management through the enhancement of the differentiated age, gender and diversity approach in the design and implementation of policies and programs for asylum-seekers and refugees.

2.2. General overview of progress made

Most States in the region have regulated the right to asylum at the constitutional level (**Bolivia**,²⁶ **Brazil**,²⁷ **Colombia**,²⁸ **Costa Rica**,²⁹ **Cuba**,³⁰ **Dominican Republic**,³¹ **Ecuador**³² , **El Salvador**,³³

26 Article 29 of the Political Constitution. (2009).

27 Article 4 of the Political Constitution (1988).

28 Article 36 of the Political Constitution (1991).

29 Article 31 of the Political Constitution (1949).

30 Article 13 of the Constitution (1976).

31 Article 46 of the Political Constitution (2010).

32 Article 41 of the Constitution (2008).

33 Article 28 of the Political Constitution (1983).

Guatemala,³⁴ **Honduras**,³⁵ **Mexico**,³⁶ **Nicaragua**,³⁷ **Paraguay**,³⁸ **Peru**,³⁹ **Venezuela**⁴⁰) and have progressively adopted internal regulations on refugee protection incorporating human rights and refugee protection standards, such as the differentiated approach to the protection needs of refugees based on their age, gender and diversity (existing legislation in Latin America, the asylum policy in Jamaica⁴¹ , and a 2014 Refugee Policy and draft legislation in discussion in Trinidad and Tobago). Moreover, progress in legislation was made at the national level in respect to migration issues (new migration laws were adopted in **Ecuador**,⁴² **Brazil**,⁴³ **Guatemala**,⁴⁴ **Peru**,⁴⁵ and **Chile**⁴⁶), which had a positive impact on the interplay with refugee protection. The concept of ‘human mobility’ as a right and underpinning element of the different situations experienced by people on the move was affirmed (**Ecuador**),⁴⁷ together with the concept of ‘extraterritorial’ recognition of refugee status.⁴⁸

2.3. The International protection of refugees and asylum seekers

2.3.1. Access to “Quality of Asylum”

In order to incorporate high standards of protection for international refugee law and the progressive evolution of protection standards States adopted or reviewed internal regulations (**The Bahamas**, **Brazil**,⁴⁹ **Chile**,⁵⁰ **Dominican Republic**,⁵¹ **Ecuador**,⁵² **Peru**,⁵³ and **Trinidad and Tobago**⁵⁴).

Much of the progress reported under the program “Quality of Asylum”, was largely shaped within the Quality Assurance Initiative.

34 Article 27 of the Political Constitution (1985).

35 Article 101 of the Constitution (1982).

36 Article 11 of the Political Constitution of the United States of Mexico (1917 and its reforms).

37 Articles 5 and 42 of the Political Constitution (1987).

38 Article 43 of the Constitution (1992).

39 Article 36 of the Constitution (1993).

40 Article 69 of the Constitution (1999).

41 Jamaica: Refugee Policy of 2009.

42 Ecuador National Assembly Human Mobility Organic Law, 6 February 2017, available [in Spanish] at: <http://www.refworld.org/es/docid/58d173504.html> . See also the implementing regulation, Executive Decree 111, 10 August 2017, available [in Spanish] at: <http://www.refworld.org/es/docid/5a665fd14.html>

43 Law No. 3344 regarding Trafficking in persons (2016).

44 Migration Decree No. 44 (2016).

45 Migration Decree No. 1350 (2017).

46 Migration Decree No. 20.888 (2016) regarding new requirements for naturalization.

47 Organic Law on Human Mobility, supra note 42.

48 The recognition by one state of the refugee status granted by another state, with due protection of the principle of *non-refoulement* and the non-cessation of status due to the cross-border movement.

49 Law No. 9474 (1997); Law No. 13445 (2017) Art. 2, 20, 26–29, 30 II “e”, 31 §4, 49 §4, 62, 82, IX, 121; Decree 9199 (2017), Art. 119-122, 142 II d, 156 III e §3, 181, 227 IX. And; Normative Resolutions from CONARE (NR 8, 10, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24).

50 Law No. 20430 which establishes regulations regarding the protection of refugees and; Decree No. 1094 regarding Political and Diplomatic Asylum, Non-refoulement, Family Unity.

51 Draft Bill to Regulate Asylum and Refugee Status in the Dominican Republic, 13 December 2017 (not adopted yet).

52 Organic law on Human Mobility, supra note 42

53 Migration Decree No. 1350 (2017).

54 National Policy to Address Refugee and Asylum Matters in the Republic of Trinidad and Tobago (2014).

The Quality Assurance Initiative Program

The Quality Assurance Initiative (QAI) program offers a solid methodology to achieve high quality refugee status determination procedures in those countries, such as **Argentina, Bolivia, Brazil, Chile, Costa Rica, Ecuador, Mexico, Panama, Peru** and **Trinidad and Tobago**, that are currently in the program, countries that have manifested interest in joining the QAI, like **Belize** and **Paraguay**, as well as those that may wish to join in the future.

QAI is a vehicle for developing (QAI from the start) or strengthening national asylum systems and work toward achieving maximum integration of fairness and procedural efficiency, while complying with the national and international standards of refugee protection. Once implemented at the national level, the QAI program establishes a baseline for the processing of asylum applications and decision-making in the first and second instances. Based on the objective diagnosis of each step in the national asylum process, the QAI program forms the basis for an internal work plan to improve the quality of the system, be it administrative or legislative in nature.

The QAI helps develop and strengthen national asylum systems through the application of accessibility, transparency, simplicity, efficiency and impartiality standards in full compliance with due process standards already incorporated in the regional human rights instruments of the Americas. The QAI also does this by implementing tools such as questionnaires, lists of verification and reports that have been developed, agreed upon and perfected through the implementation of the program in the region.

Within the QAI, States have enhanced their reception and protection structures as well as adopted registration and eligibility manuals, Standard Operating Procedures (SOPs) and training modules to capacitate staff on refugee protection and improved decision making processes, paying heightened attention to special cases that need to be prioritized.

The institutionalization of legal representation and sponsorship or free legal assistance in all instances of the process has also been enhanced by implementing the QAI as a tool to strengthen respect for due process guarantees, the respect of individual rights, and to expedite decision-making mechanisms and their foundations through the Public or Federal Defenders' Offices (**Argentina, Brazil, Ecuador**).

Access to Legal Advice and Free Legal Representation

Based on the recognition by law of the right to be assisted by an attorney in all instances of the process, which establishes that the competent body handling asylum applications must take action to provide access to free and appropriate legal services to applicants for asylum, Argentina established an inter-institutional framework agreement to ensure legal representation at the administrative and judicial level. Not all cases are brought before the courts, only those that present some substantive or procedural vices and require international protection or cases where a contribution could be made to improve protection standards are.

Specialized lawyers, appointed in any instance of the process, provide free legal counsel and representation to applicants and refugees who wish to benefit from their services. Lawyers participate in all phases of the recognition process, such as in the formalizing of documents and applications, the interview, presenting supporting documents, introducing requests for judicial review, filing judicial appeals, assisting in obtaining temporary residency and helping with naturalization when refugees meet the requirements to obtain it.

This program has improved the quality of the process because asylum seekers submit better prepared, more complete applications and the technical evaluations are consequently faster and better founded. In addition, access to the refugee status determination process has been improved and the formalization of the different phases of the process has been streamlined.

Another one of the achievements of the QAI was the progressive implementation of alternatives to administrative detention for migrants, asylum seekers and refugees that paid particular attention to the specific needs of individuals, to family unity, and to respecting human rights. Such alternatives consist of shelters, accommodation and reception centres or other measures. (**Costa Rica**,⁵⁵ **Mexico**⁵⁶).

“I never heard the word ‘asylum’ before. When they told me I could apply for asylum I felt like I had to start climbing a mountain without equipment or shoes”

Graciela, Salvadorian refugee in Costa Rica

The Administrative Immigration Tribunal

The Administrative Immigration Tribunal (TAM – *Tribunal Administrativo Migratorio*) in **Costa Rica** is the only quasi-judicial body enabling the second instance review of the refugee status determination process in the Latin American and Caribbean region. The TAM is a technical-judicial instance, highly specialized in immigration and refugee matters. It is competent to receive appeals lodged against the decisions of the Migration Authorities in matters relating to migration and asylum. Its decisions exhaust the administrative route for the review of a case. It has a unique headquarters in San José.

Despite organically belonging to the Ministry of the Interior and Police, the TAM enjoys maximum independence as there are no powers of certiorari and revision, nor of instruction, which guarantees that decisions are issued from the pure application of technical parameters and in ample exercise of the autonomy that second instance review decision-makers should have.

The TAM is composed of three primary and three alternate judges with a supporting team of professionals in refugee, migration and administrative legal matters. Decisions are taken unanimously by the three judges who meet at three voting sessions a week. If considered appropriate, or at the express request of the applicant, the TAM could hold a hearing in which the allegations and the accounts of the applicant are heard, in order to hear first-hand evidence and delve into the details that are not contemplated in the written documentation. For this the TAM has a specially equipped room with audio and video capacities that guarantees the legal security of the audience through digital backup.

The TAM is a unique guarantor for refugees and migrants, who, in the independent and impartial second instance, find not only an additional chance that their case will be seen again with a different view, but that it will be heard with objectivity, not just by one decision maker but three judges who are professionally trained in refugee law.

55 Immigration Law No 8764 (2009), Art. 6, 31, 41, 106, 116, 117, 118; Decree No 36 831-G Regulations for Refugees, Art. 7, 10, 63, 64, 137.

56 See Report of the Inter-American Commission on Human Rights “Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico” (2013), Chapter III regarding Detention and Due Process, available at <http://www.oas.org/en/iachr/migrants/docs/pdf/Report-Migrants-Mexico-2013.pdf>

On the basis of their *non-refoulement* obligations, some countries have regulated complementary protection and humanitarian visas for persons who do not qualify as refugees (**Argentina**,⁵⁷ **Brazil**,⁵⁸ **Chile**,⁵⁹ **Costa Rica**,⁶⁰ **Ecuador**,⁶¹ **Mexico**,⁶² **Nicaragua**,⁶³ **Panama**,⁶⁴ **Peru**,⁶⁵ and **Uruguay**⁶⁶).

2.3.2. Registration and Documentation

States recognize the importance of and are deploying efforts to collect more qualitative and quantitative data on asylum seekers and refugees, through gathering and analyzing information disaggregated by sex, age and diversity and the preparation of demographic and socioeconomic studies to improve protection responses (**Brazil, Ecuador, MIRPs countries**).

Dedicated Reception and Registration Units

Chile established exclusive and specialized reception and registration units within their state authority competent to process asylum applications. The registration unit is endowed with trained technical personnel who: a) offers assistance to the public, such as providing general consultations, recording changes of address, providing information about freedom of movement and leaving the country, receiving requests for travel documents, receiving the application for refugee status, referring cases to legal clinics or other competent body; b) formalizes the acts and procedures providing face-to-face support service, help filling out forms, providing information on rights and duties, reviewing and scanning documents, and referring priority cases to adequate care; c) enters the asylum application into the system, and elaborates resolutions for the granting of visas, stamps visa or issues residence certificates, and remits a visa to the regions (provinces) where the claimant resides; d) allows subsequent entry of documentation to the system by the applicant, as well as any other information sent by other authorities.

The registration unit contributes to the development of: i) Manuals on Administrative Procedures; ii) registration forms and brochures on the procedure as well as on rights and obligations; iii) applications forms, visa extensions, etc.; iii) a registration system to be implement at the border entry points.

In addition the following progress was made:

- The progressive introduction in the region of an advanced platform that combines identity management and case management applications by UNHCR and its partners (**Belize, Brazil,**

57 Articles 23, 29, 34 of the Law No. 25.871 (2004) – Migration Policy in Argentina on humanitarian visas.

58 Migration Law (2017), Art. 14 §3 on temporary visa for humanitarian purposes; Normative resolution No. 126 (2017) –Immigration National Council on Residence permit for Venezuelans; and Normative Resolution No. 13 (2007) – Refugee National Commission on humanitarian visas.

59 Art. 4 and 6 of the Law No. 20.430 (2010) on *non-refoulement*.

60 Immigration Law (2009), Art 93 y 94-12 on humanitarian visas.

61 Art. 57, 58, 66 of the Organic Law on Human Mobility, *supra* note42.

62 Art. 52, 53, 74 (on humanitarian visas) and Art. 3, 52-V, 54 (on complementary protection) of the Immigration Law (2011) and; Art. 2-IV, 3, 6, 7, 15-17, 48 of the Refugee and Complementary Protection Law (2011); Art. 8 and 48 of the Regulation of the 2011 Law on Refugees, Complementary Protection and Political Asylum.

63 Immigration Law (2011), Art. 220 on complementary protection.

64 Law Decree no. 3 (2008), Art. 6 and 18.

65 Legislative Decree on Immigration (2017), Art. 29 on humanitarian visas and; Supreme Decree No. 002-2017-IN about Temporary Residence Permit for Venezuelans.

66 Immigration Law No. 18.250 (2008), Art. 34, 43, 44 about humanitarian visas.

Colombia, El Salvador, Guatemala, Mexico, Trinidad and Tobago, Venezuela, and the UNHCR Caribbean Protection Unit);

- The issuance of individual documentation to asylum seekers and refugees (**most countries in Latin America and some in the Caribbean**);

Interoperable registration systems between different state entities

In order to timely identify and assist asylum seekers and refugees in an interoperable manner among the different entities in charge of providing protection, **Brazil** developed a joint registry project called ‘SISCONARE’, to enable a better reliability and quality of the information generated by this process. Several agencies (Migration, Asylum, Child Care, etc.) can work in the same system at the same time. The SISCONARE is a computerized system that allows the asylum application to be entered online from anywhere and approved afterwards. Applicants have thus better electronic access to monitor their case and know exactly at which stage of the procedure they are in.

The project aims to: a) increase the ease and agility to request refugee status; b) increase the efficiency, transparency and quality of the service; c) economize human resources; d) allow the monitoring and control of refugee information in a centralized manner while leaving the maximum of (virtual) decentralization; and e) improve the reliability of the information generated by the process.

“When I received my ID documents, I felt I was starting to come back to life”

Raúl, Colombian Refugee in Ecuador

- The granting of a humanitarian visa to applicants for asylum, free and renewable from the submission of the asylum application to the decision on the case that allows the legal stay in the country and the protection against the return (**Ecuador**);⁶⁷
- The omission of the mention of the status of asylum-seeker or refugee in identity documents in order to avoid possible discriminatory instances and favour access to basic rights and services for asylum seekers and refugees (**Bolivia, Brazil, Colombia, Costa Rica, Ecuador, Peru**);
- In the framework of the process to request the recognition of refugee status, the normative framework establishes that, in the absence of identity documents, asylum-seekers can prove their identity through alternative means, such as a declaration sworn before the competent authority (**Dominican Republic**);
- Registration in the civil registry and delivery of a national identity card, which guarantees full access to rights (**Ecuador, Guatemala**).

⁶⁷ Art. 66 Organic Law on Human Mobility, supra note 42.

2.3.3. Borders of solidarity

The establishment of preliminary identification, care and protection procedures for unaccompanied or separated children or adolescents at border points in order to provide priority and agile processing, considering the best interests of the child (**Brazil, Costa Rica, Panama**).

- **Decentralization and delegation of authority of RSD procedures:**

The RSD process in **Brazil** is not complicated, however, it requires many steps and has to respect certain time frames. To streamline the process, the eligibility offices were decentralized. The size of the country, owing to almost continental dimensions, presents challenges with regard to coordination and to providing effective and rapid access to asylum-seekers and refugees, therefore increased outreach and local attention is required. Decentralization facilitates and expedites the disposition of the case and the phases of process. The Brazilian CONARE also conducts remote interviews via teleconference so that people do not have to travel to the capital to attend their interview.

Likewise in **Ecuador**, The National Commission for Refugees and Stateless individuals, which is the competent body for processing asylum applications, can meet in any part of the country through a general policy of decentralizing functions. Zonal coordination structures, which house the eligibility offices, are the executing arms of the central authority. Each office has an area of admissibility, eligibility, filing and archiving and an area for administration area. All of them execute RSD functions and make technical reports for the Eligibility Commission that sits in Quito, while plans are being discussed to decentralize also the eligibility commissions in some provinces.

The decentralized process facilitates serving the population that is often vulnerable and whose economic resources do not allow them to travel to the capital. It strengthens processing capabilities and increases access to protection.

The Team for Special Migratory Situations - ESME

In **Costa Rica**, to guarantee a multi-sectorial response to the different types of distinctive needs of aliens (vulnerable asylum seekers, victims of human trafficking, unaccompanied children, survivors of sexual or gender-based violence, etc.), the authorities have established the 'Team for Special Migratory Situations' (ESME – *Equipo para Situaciones Migratorias Especiales*). The ESME jointly assesses cases, requests assistance and coordinates with any other Unit of the General Directorate of Migration and Aliens (DGME), carrying out inter-institutional coordination. Through the corresponding processes, institutional capacities are strengthened and allow for the detection of situations in which immediate humanitarian intervention is required, as well as for the referral of the case to the most appropriate institution for assistance. The ESME is composed of different departments of the DGME, which have predefined responsibilities in a framework of cooperation and joint operation.

When necessary, ESME may coordinate with governmental and non-governmental institutions, within the 'Immediate Response Team', as well as any other body that guarantees the rights of the people who benefit from the intervention provided by the ESME.

2.4. Regional developments

At regional level, a number of initiatives aiming at strengthening cooperation among states and other actors called upon to provide international protection were adopted. For example, the MERCOSUR and associated states (**Argentina, Bolivia, Brazil, Chile, Paraguay, Peru, Uruguay and Venezuela**) forum of CONAREs was recognized as a key regional space for the discussion of refugee protection standards and coordination of initiatives. The Forum, which meets regularly several times a year, adopted important steps in the harmonization of standards and practices, such as the creation of a common registry for volunteering interpreters to be used via remote access, the creation of training modules on RSD, and the regional exchange of statistical and other information related to case processing to improve case management and protection responses. A similar cooperation forum, facilitating the exchange of good practices on RSD, exists between the National Refugee Commissions of the Mesoamerica sub-region (**Belize, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, El Salvador, Panama** and including the **Dominican Republic**), which counts with the support of **SICA** and **UNHCR**.



UNHCR Field Associate Rosa Garcia talks with Elsa*, Eduan* and family at one of UNHCR funded shelters. Elsa* fled Honduras with her husband and their five children after gang members threatened to kill them. © UNHCR/Sebastian Rich
* names changed for protection reasons

In the **Caribbean**, the establishment of a Caribbean Migration Consultations (CMC) favored dialogue, exchanges and common understanding on refugee protection in mixed maritime movements, with particular emphasis on protection screening, reception, alternative to detention, RSD and building or strengthening asylum systems.

In addition, the rollout of UNHCR’s Population Registration and Identity Management EcoSystem (PRIMES) is being carried out to improve collaboration between civil society, UNHCR and potentially government actors in the actual provision of protection services. The rollout is enhancing quality, efficiency, integrity and coordination of delivery.

Within the context of the **Regional Conference on Migration**, countries have adopted regional guidelines to foster the identification of migrants and people in need of international protection with the technical support of UNHCR and the International Organization for Migration (IOM).

States have also started gathering in **regional QAI roundtables** to discuss common issues of concern and to exchange good practices on case management and backlog reduction strategies, aiming

at strengthening access to procedures and protection, registration and referral of cases and special attention to vulnerabilities and persons at risk.

Regional cooperation was fostered beyond the geographical reference of the BPA, to include Canada and the United States of America as well. In 2015, the quadripartite (**Canada, US, Mexico** and **UNHCR**) capacity development project was created to enhance asylum cooperation and build greater capacity, initially oriented to the Mexican asylum system. In 2016, a revised Joint Action Plan contained several activities that further strengthened Mexico's first instance decision-making, such as fact finding missions to El Salvador and Honduras and an RSD workshop for new COMAR eligibility officers. In the last two years, other COI fact-finding missions to El Salvador and Honduras were held involving all parties, resulting in public COI report published by the Canadian IRB. Other countries in Latin America or the Caribbean were supported with capacity development efforts in RSD to be rolled out in 2018.

Academic institutions, legal clinics, ombudspersons' offices and civil society organizations, have launched the Americas **Network for Refugee Legal Aid (ANRLA)** in order to multiply legal support interventions to asylum-seekers and refugees.⁶⁸

2.5. Challenges identified in the regional and thematic Consultations

2.5.1. With respect to "Quality of Asylum" the following challenges were identified:

- The need to improve the interpretation of the extended definition included in the Cartagena Declaration for those countries that have incorporated it in their national legislation and ensure its effective implementation;
- Limited free and ex-officio legal representation to support the application of asylum-seekers and refugees throughout the various phases of the proceeding;
- Limited balance between the expedited application and summary proceedings for fraudulent or manifestly unfounded applications and respect to due process safeguards;
- Extremely tight deadlines for the submission of asylum applications which may lead to the risk of refoulement and denial of the right to seek and be granted asylum;
- Non-institutionalized quality interpretation services that ensure impartiality, professionalism and flexibility to respond to the multiplication of different nationalities that seek asylum in the region;
- Limitation in independent second instance reviews that ensure impartial review of negative decisions and strengthen due process guarantees for asylum seekers and refugees.

⁶⁸ ANRLA was established in May 2017. It is mainly axed on four pillars: capacity development on refugee protection; research on refugee law; strategic litigation; and legal orientation, counseling and representation. Additional information can be obtain through their website at www.ralra.org

2.5.2. With respect to “Registration and Documentation”, the following challenges were identified:

- Out-dated registration systems that require upgrades and adaptations to the new realities of the region, in terms of increased capacity to perform collection of data and case management;
- Interoperability among asylum and immigration authorities should be enhanced to grant better protection to asylum-seekers and refugees and greater security and control by the state;
- Late and inadequate documentation provided to asylum-seekers and refugees that should be timely and adequate from the first contact with the authorities to the closure of their case.

2.5.3. With respect to “Borders of Solidarity”, the following challenges were identified

- Limited access to asylum at the border, with particular emphasis on land crossing points, airports, and at sea. Need for training of migration officers, provision of information to prospective asylum seekers and issuing documentation;
- Persisting limitation in the early identification and referral mechanisms and establish SOPs for protection profiling for persons in need of international protection, with particular emphasis on unaccompanied children, women-at-risk and other vulnerable groups.



A family of Honduran refugees enters the town of La Técnica, Guatemala, a popular crossing spot into Mexico for refugees on their way to claim asylum.
© UNHCR/Tito Herrera

2.6. Priorities

2.6.1. With respect to “Quality of Asylum”, ensure:

- The enhancement of the asylum systems through the QAI, strengthening the institutional capacity to respond to new and increased challenges in terms of adequate structures, sustained capacity development of professionals and improved case management;
- The provision of information on procedures, guidance and free legal advice to asylum seekers and refugees (including special protection procedures outside the asylum system, such as alternative measures of admission and stay or complementary forms of protection), on times and deadlines, rights and duties and expectations for persons applying for asylum in a language they can understand, ensuring individual and confidential interviews as well as informed decisions;
- The establishment of interdepartmental or inter-ministerial mechanisms for the early identification and care of cases with special protection needs, such as for unaccompanied girls, boys and adolescents, women-at-risk, survivors of gender and sexual violence, victims of trauma, victims of human trafficking, lesbian, gay, bisexual, transgender and intersex people (LGBTI) persons, or other cases with acute vulnerabilities;
- The revision of legislation, regulations or other administrative norms to include the adoption and application of the extended refugee definition according to the recommendation of the Cartagena Declaration on Refugees of 1984;
- The abolition or limitation of filing deadlines for lodging asylum applications, eliminating unreasonable deadlines, allowing for the possibility of review or appeal of the potential inadmissibility, allowing eventual late requests justified by individual circumstances;
- The implementation of measures aimed at guaranteeing the principle of confidentiality in all phases of the process, including the provision of adequate spaces and mechanisms to allow individualized interviews according to the particular needs of the applicant, along with the provision of qualified interpreters who respond to guarantees of impartiality and professionalism;
- The institutionalization of legal representation and sponsorship or free legal assistance in all instances of the procedure as a tool to strengthen justice, respect of individual rights, as well as to streamline decision-making mechanisms and their foundation;
- In those countries that implement administrative detention for migrants, alternatives to detention for asylum seekers and refugees, through shelters, accommodation and reception centres or other measures with attention to the specific needs of individuals, family unit, and respect for human rights;
- The strengthening of south-south technical cooperation, including spaces for the exchange of good practices and “twinning” programs among competent authorities, within the framework of shared responsibility;
- The enhancement of appeal and review mechanisms, ensuring their suspensive effect, and guaranteeing effective access to second instance procedures through a specialized and independent authority that operates with exclusive functions of judicial or administrative review.

2.6.2. With respect to “Registration and Documentation”, ensure:

- The development of unified registration systems between asylum and migration authorities to ensure interoperability of data, better management of applications, increased protection of persons against arrest and return, as well as the possibility of more expedited issuance of documentation;
- The development and institutionalization of specialized Registry Units that ensure better coordination among all actors and a closer relationship with applicants and refugees, allowing enhanced identification of needs and vulnerabilities;
- The disaggregation of data by age, gender and diversity, with particular focus on the special vulnerabilities of asylum seekers and refugees, such as LGTBI individuals, survivors of trauma and sexual and gender based violence, or unaccompanied children to ensure a close follow-up, including of the determination of the best interest of the child, family reunification or the appointment of a guardian or specific assistance due to their vulnerabilities;
- The provision of registration forms in different languages with particular attention to highlighting the individualized protection needs of each asylum seeker, and in particular of unaccompanied girls, boys and adolescents in order;
- Expedited issuance of documentation for asylum-seekers and refugees, since the first contact with the authorities and the filing of an asylum application, in order to guarantee *non-refoulement*, access to basic services and rights of the applicants and refugees;
- The omission of the status of refugee or asylum seeker in the documentation issued, to prevent instances of discrimination, xenophobia or simply limitations or obstacles to the enjoyment of rights;
- The issuance of travel documents in line with the ICAO norms of machine-readable travel documents, in order to favour freedom of movement of refugees in full respect of the rights and obligations that belong to them;
- The possibility that the granting of identity documents, be they provisional or definitive, provide the possibility of accessing facilitated naturalization procedures for refugees, in compliance with the indications of the 1951 Convention (Article 34).

2.6.3. With respect to “Borders of Solidarity”, ensure:

- The training of immigration officers operating at borders, including through manuals and video-training, to guarantee respect for the right to seek asylum, receive requests or timely refer cases to the competent authority, ensuring access to the territory, to international protection and *non-refoulement*;
- The strengthening of the asylum authorities in a decentralized manner with a closer approach to the border areas, the possibility of receiving requests, interviewing and making decisions in a decentralized, faster and more efficient way by multiplying the protection responses.

Section III

COMPREHENSIVE, COMPLEMENTARY AND SUSTAINABLE SOLUTIONS



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3. Comprehensive, Complementary and Sustainable Solutions

3.1. Reference to the BPA

Chapter 3 of the BPA establishes the program “Comprehensive, Complementary and Sustainable Solutions” with the objective of achieving durable solutions for refugees, and in particular for long-term refugee populations in host countries. The BPA refers to the three traditional solutions, local integration, resettlement and voluntary repatriation, together with other mobility programs that can be implemented in a joint, coordinated and complementary manner to achieve the most suitable and sustainable solutions for the entire refugee population through a comprehensive response.

3.2. General overview of progress made at national level⁶⁹

3.2.1. Local integration

Local integration, understood as a durable and comprehensive solution, entails multiple and inextricably connected dimensions, including the legal, the socio-economic, and the social-cultural dimensions.

⁶⁹ This Section deals primarily with progress in the field of durable solutions in Latin American states. For the Caribbean, progress in this areas is reported under the relevant Section V of the report.

a. The Legal dimension of local integration

The legal dimension refers to the set of laws that applies to refugees and asylum seekers ensuring effective enjoyment of human rights in the host country. The process of legal integration involves granting documents that guarantee access to rights and, ideally, leads to the possibility of obtaining the naturalization in the country of asylum.

- **Documentation and access to basic services:**

A series of positive developments have been achieved in the area of registration and documentation for refugees and asylum seekers. A number of States have initiated the good practice of avoiding any mention to refugee status or the application of refugee regulations in identification documents to prevent discrimination and limitations to the enjoyment of rights (**Bolivia, Colombia, Costa Rica, Ecuador, Uruguay, and Peru**).

Other States are issuing identification documents for refugees that are similar, in both the form and substance, to the ones of nationals (**Argentina, Ecuador, Guatemala**), thus avoiding discrimination in accessing rights.

Many countries are delivering provisional documents to asylum seekers - including humanitarian visas - that provide effective access to rights, including the right to work and basic services (**Argentina,⁷⁰ Bolivia,⁷¹ Brazil,⁷² Chile,⁷³ Colombia,⁷⁴ Costa Rica,⁷⁵ Ecuador,⁷⁶ México,⁷⁷ Nicaragua,⁷⁸ Paraguay,⁷⁹ and Uruguay⁸⁰).**

In order to facilitate access to documentation, different countries are issuing documentation free of charge (**Argentina, Bolivia, Chile, Peru and Uruguay**), whereas in **Brazil** only temporary documents are free.

Brazil has included the possibility for asylum seekers and refugees to open a bank account and access credit within the territory of the State, irrespective of their legal status. Recently, the Bank of Brazil developed specialized agencies in São Paulo to offer services to refugees and asylum seekers, increasing the options for this population.

A positive development at level of local government in a number of countries relates to the services and assistance provided to refugees and asylum seekers regardless of their legal status or availability of documentation. This is the case, for example, of the cities of Rio de Janeiro, São Paulo, Curitiba, Porto Alegre, Manaus and Rio Grande do Sul in **Brazil**, the Province of Pichincha and the Municipality of Quito in **Ecuador**, Mexico City in **Mexico** and Panama City in **Panama**.

70 Arts. 42, 43 and 51 General Law for the Recognition and Protection of Refugees (26,165) (2006).
 71 Art. 35. Law N. 251 for the Protection of Refugees (2012).
 72 Art.21. Law N.9, 474, establishing arrangements for the implementation of the 1951 Status of Refugees and related provisions (1997).
 73 Arts. 32 y 46 Law N. 20.430 establishing dispositions for the protection of refugees (2010).
 74 Arts. 2.2.111.4.9 and 2.2.31.4.1 Decree 1067 (2015).
 75 Art. 54. Regulation for Refugees N° 36831-G.
 76 Arts. 90, 91 and 100 Organic Law on Human Mobility, supra note 42.
 77 Art. 52. Mexican Migration Law (2011).
 78 Art. 23 Law N° 655 for the Protection of Refugees (2008).
 79 Art. 23. General Law N° 1938 on Refugees (2002).
 80 Art. 42 Law N° 18.076 Right to Refuge and to Refugees (2006), and Art. 19. Law Migration Law N° 18.250 (2008).

Non-discriminatory documentation for refugees

In **Ecuador**, the Government started granting identity documents to non-nationals with legal residence in the country, including those with international protection needs, with the same entitlements of national identity documents. While the period of validity is two years (and not ten, as it is the case for national IDs), the identity document for non-nationals includes the same information and format of national ones. The documents are issued by the Civil Registry of Ecuador. This practice is based on the principle of equality before the law between non-nationals and Ecuadorian nationals as established in the National Constitution.

- **Legal residence:**

A number of States made important progress regarding the provision of legal residence to refugees. In order to facilitate the integration process, some countries granted permanent residence to refugees (**Bolivia**⁸¹ **Chile**⁸² **México**⁸³ and **Uruguay**⁸⁴). **El Salvador** and **Panama**, facilitated procedures to obtain permanent residence have been granted to refugees. In countries like **Argentina**, **Brazil**⁸⁵, **Costa Rica**⁸⁶, **Ecuador**⁸⁷, **Nicaragua**⁸⁸ or **Panama**⁸⁹ refugees do not lose their status when they change from temporal to permanent residence.

In addition, a number of States have established procedures for refugees to convert their temporary migratory status into permanent residence (**Brazil**, **Costa Rica**, **Ecuador**, and **El Salvador**).

A few countries have anticipated the initial term that computes the time line for obtaining permanent residence or naturalization to the moment of lodging the asylum claim, as opposed to when the status is formally recognized (**El Salvador**⁹⁰ and **Nicaragua**⁹¹).

With respect to naturalization, **Bolivia** has significantly reduced the costs for the naturalization of refugees.

Stable legal residence granted to refugees

Refugee status, as stated in International Conventions, should not be understood as a mere migratory condition granted under national law; a stable migratory status represents an essential component for effective local integration of refugees in the country of asylum, as part of a more favorable protection schemes. Several countries have granted refugees a stable migratory status (**Bolivia**, **Chile**, **Mexico**, and **Uruguay**) that ensures permanent residence in the host country following the recognition of refugee status. Other countries have granted permanent residence following a required period of residence in the country (**Brazil**, **Ecuador**, **El Salvador**, or **Costa Rica**).

81 Art. 46. Law N° 251 for the Protection of Refugees (2012).

82 Art. 45 Law N°. 20.430 establishing dispositions for the protection of refugees (2010).

83 Art.48 Law on Refugees, Complementary Protection and Political Asylum (2011).

84 Art.42 Law N° 18.076 Right to Refuge and to Refugees (2006).

85 Art.1 Normative Resolution 10 (2003).

86 Art.126 General Law on Migration (2009).

87 Art. 91 Organic Law on Human Mobility, supra note 42.

88 Art.29 Law N° 655 for the Protection of Refugees (2008).

89 Art.93 Decree N° 5 (2018).

90 Art. 29 Law N° 655 for the Protection of Refugees (2008).

91 Art.55 Decree N° 79. Rules for the implementation of the Law for the Determination of the Refugee Status (2005).

b. The socio-economic dimension of local integration

The socio-economic dimension of local integration implies the possibility of ensuring adequate livelihoods along with an effective path towards self-sufficiency for refugees and asylum seekers.

- **Access to formal employment:**

The region has shown significant legislative progresses and good practices with respect to non-discriminatory documentation, to both refugees and asylum seekers, that ensures access to employment (**Argentina, Aruba, Bolivia, Brazil, Chile, Costa Rica, Ecuador, Guatemala, Nicaragua, Paraguay, Peru,**⁹² and **Uruguay**)⁹³ and the enjoyment of economic, social and cultural rights, including basic services and aid programs (**Argentina, Brazil, Chile, Costa Rica, Ecuador and Guatemala**). These practices involve corporate social responsibility initiatives and the insertion into the labor market of both refugees and asylum seekers (**Brazil, Costa Rica, Argentina, Peru or Uruguay**), including information on job search, formation and vocational training, as well as language classes, especially of the host country are key achievements in terms of local integration.

- **Access to Education:**

A number of countries have eliminated the requirement to prove migratory status to access education services, including stamps from the country of origin (**Brazil, Cuba, Mexico, and Panama**) or the validation of degrees obtained in the country of origin (**Bolivia and Ecuador**). Some countries are promoting free classes to learn the language of the host country to facilitate local integration (**Argentina, Brazil, and Ecuador**).

Argentina, following a resolution of the Ministry of Education, is granting a preferential treatment to specific students (including asylum seekers and refugees) in the administrative process for enrolment. In **Uruguay** and **Costa Rica** asylum seekers and refugees have access to education in the same modalities as nationals.



A teacher trains a group of young boys in how to repair an engine at a car mechanics workshop at the City of Childhood and Youth community centre in Santa Ana, El Salvador. © UNHCR/Tito Herrera

- **Access to Housing:**

Some countries are ensuring housing programs to refugees (**Brazil, Chile, Costa Rica, México and Uruguay**) and asylum seekers (**Brazil**). Shelter and psychological attention are given with priority to children and adolescents (**Brazil, Mexico**).

92 Art. 14 Law of Refugees of Peru N° 27891 (2002).

93 See the references to legislation in the footnotes of the paragraph above "Documentation and access to basic services".

- **Access to health and social security:**

In a few countries refugees are granted access to social security (**Mexico** and **Argentina**), whereas in others refugees are granted equal access to public health services (**Argentina, Brazil, Costa Rica, and Uruguay**). In **Cuba** both asylum seekers and refugees have free access to public health services.

In addition, a number of countries have adopted mechanisms for referring refugees and asylum seekers to local programs to avoid duplications and ensure effective assistance (**Brazil, Costa Rica, and Ecuador**). In this regard, official systems have been created to inform refugees and asylum seekers about their rights and the services they can access.

In some countries, asylum seekers and refugees took part in participatory assessments to determine the effective integration processes in host countries (**Argentina, Costa Rica, Guatemala and Panama**). In **Brazil**, the Ministry of Labor and its International Migration Observatory, in coordination with the Sergio Vieira de Mello Chair and the Ministry of Justice, and with the support of UNHCR, developed a project to determine the living conditions of refugees and asylum seekers and to define a national strategy for their local integration.

Decentralization of measures and coordination between municipalities and local governments have been considered key elements to better meet the needs of refugees and asylum seekers with regards to integration. Some local governments promoted inclusive policies and programs related to access to housing and public health in favor of migrants, asylum seekers and refugees (the Province of Pichincha and Quito in **Ecuador**; Sao Pablo in **Brazil**; San Luis in **Argentina**). These municipalities included measures to deliver personal documents in an expedited manner to ensure that refugees and asylum seekers can have access to social allowances and learning opportunities. **Chile** also enacted policies to facilitate refugees' and asylum seekers' access to health, employment and housing programs through local governments.

The Program “Living the Integration”

Through the Program “Living the Integration”, the Government of **Costa Rica**, in partnership with UNHCR and other institutions granted refugees and asylum seekers a series of services and training leading to enhanced employment skills, access to jobs, including support to set up their own business activities. The purpose of the program is to promote social and economic integration for refugees and asylum seekers, through public-private partnerships. Participating private companies receive an annual recognition from the Government and UNHCR. An agreement was signed between the Ministry of Labor and UNHCR, with the objective of including refugees and asylum seekers in the labor market. The agreement envisages a close collaboration in developing activities that promote access to employment-related initiatives managed by the Ministry.

“We received a lot of support as refugees and we are hard-working people. The help my family received allowed us to overcome obstacles when we first arrived”

Ricardo, Colombian refugee in Costa Rica

Management Model: Human Mobility House in Quito

The Human Mobility House is a local government initiative created to support social, economic and productive actions, establishing programs for persons on the move, and their families, for the effective enjoyment of their human rights. It contributes to integration by ensuring that persons on the move are guided in accessing different services through specific public and private institutions. It also promotes the use of artistic, cultural, and recreational activities, including the interaction between local communities and persons on the move.

c. The Socio-Cultural dimension of local integration

The socio-cultural dimension of integration is based on the creation of a feeling of inclusion, belonging and social participation in the host community, without renouncing to one’s own culture. Good practices include projects aimed at integrating persons of concern in the local community through cultural events and various forms of training to strengthen personal skills.

A number of countries are implementing projects to raise awareness of host communities on the situation and needs of refugees and asylum seekers and to promote the engagement of host communities in activities that foster local integration (**Argentina, Brazil, Costa Rica, Ecuador and Mexico**).

The creation of the Sergio Vieira de Mello Chair in various countries of the Southern Cone through the Montevideo Group of Universities is a good practice to raise awareness on the needs and challenges regarding refugee protection in the sub-region (**Argentina, Brazil, Chile, Costa Rica, Paraguay and Uruguay**). Other countries promote trainings for schoolteachers and deans to create an inclusive environment (**Costa Rica and Mexico**). Several cultural events and capacity building initiatives have also been organized to strengthen the personal abilities of refugees and asylum seekers and enhance their integration process (**Costa Rica and Ecuador**).

The Human Mobility Week in the Government of Pichincha, Ecuador and in San José Costa Rica

The local government of Pichincha in **Ecuador** has organized the Human Mobility Week, inviting the city to create spaces of reflection on migration issues and on effective access to rights in favor of migrants, refugees and asylum seekers in the community. During this week, the local government promotes a number of activities, including information campaigns, cultural and artistic events, social dialogues, and business fairs.

This is also the case of the *Festival IntegrArte* in San Jose, **Costa Rica**, where governmental institutions and private entities, in partnership with UNHCR, promote the interaction of cultural and artistic activities from Costa Rica and countries of origin of refugees and asylum seekers.

3.2.2. The Program “Cities of solidarity”

The Cities of Solidarity (CoS) program stems from the recommendations identified by States under the 2004 Mexico Plan of Action and reconfirmed in 2014 by the BPA. The program aims at promoting and recognizing existing efforts of local governments aimed at enhancing protection and integration of refugees and asylum

seekers. The initiative was recently revamped through an UNHCR award mechanism, according to which local governments (cities, municipalities and provinces) that are officially recognized as “Cities of Solidarity” would receive an official ‘Seal’. In this respect, a set of ten criteria to assess the applications has been developed. A number of cities and municipalities have implemented interesting integration practices (Sao Paulo, **Brazil**; Quito and the Province of Pichincha, **Ecuador**; Mexico City, **Mexico**).

The Program “Cities of solidarity”

The Framework Agreement of Collaboration between the UNHCR and Mexico City (Mexico):⁹⁴

The agreement aims at encouraging the inclusion of refugees, asylum-seekers, and beneficiaries of complementary protection in social security programs provided by the city and in enabling the creation and development of specific agreements with relevant departments of the local Government. Mexico City also expressed the willingness to champion for Cities of Solidarity by sharing its best practices in the relevant forums.

São Paulo City of Solidarity (Brazil):

The project was explicitly designed for migrants and refugees, establishing crosscutting and inter-sectorial coordination to ensure access to economic, social and cultural rights. The City grants free public services to refugees and asylum seekers, irrespective of migratory status.

The program “Quito inclusive city” (Ecuador):

This human-rights-based program was developed around the principle of inclusion, recognizing refugees and asylum seekers as rights-holders, through an age-gender-diversity approach. Based also on the principle of co-responsibility, it leverages the articulation and interaction of public and private institutions, and the rights protection system of municipalities – based on national and local policies - and the central role of civil society.

3.2.3. Solidarity Resettlement

The solidarity resettlement program represented one of the most innovative components of the 2004 Mexico Plan of Action, and an alternative solution for refugees, according the principle of shared responsibility. In **Uruguay** solidarity resettlement programs have benefited both Colombian and Central American refugees. A number of countries have implemented the resettlement programs for refugees coming from countries in conflict, including internal conflict (**Argentina, Brazil, Chile, and Uruguay**)⁹⁵.

Syrian nationals have been resettled through the humanitarian visas system and thanks to the support in the reception process of civil society, private individuals and local governments (**Brazil** and **Argentina**). In **Chile**, the authorities developed as well a solidarity resettlement program for refugees coming from Lebanon.

In addition, a few countries entered the “Emerging Resettlement Countries Joint Support Mechanism” (ERCM) in May 2017 as a means to consolidate sustainable and protection-centered programs (**Argentina, Brazil** and **Chile**).⁹⁶ UNHCR offered technical support for the development of community-based sponsorship models, adapted to each country context, with contributions from ERCM and the Global Refugee Sponsorship Initiative (GRSI).

94 Firman Convenio CDMX y ACNUR para ampliar asistencia social a refugiados, August 2017, available at: <http://sds.cdmx.gob.mx/comunicacion/nota/firman-convenio-cdmx-y-acnur-para-ampliar-asistencia-social-refugiados>

95 Just in 2017, Argentina received 167 Syrians, Chile received 66 Syrians and Uruguay received 16 Salvadorians refugees.

96 See the emerging Resettlement Countries Joint Support Mechanism, available at: <http://reporting.unhcr.org/node/15495>

Local governments, civil society and faith-based organizations are playing an important role in expanding resettlement opportunities in the Southern Cone by becoming refugee sponsors, providing post-arrival assistance and developing community networks to support local integration. UNHCR is supporting several initiatives to enhance sponsorship networks and to explore alternative funding opportunities and contributions from the private sector.⁹⁷

Costa Rica enacted the Protection Transit Arrangement (PTA),⁹⁸ a humanitarian evacuation mechanism from Northern Central America countries to facilitate the transit of people in need of international protection to a third country. Through the Regional Refugee Transfer Mechanism (RRTM), **Trinidad and Tobago** also implemented a mechanism for the temporary relocation of refugees from other Caribbean countries, while procedures are completed prior to resettlement to the destination country.⁹⁹



Husam and his wife Hadil in their restaurant in Santiago. © UNHCR/Magui Masseroni

The “Syria Program”¹⁰⁰

Argentina introduced a humanitarian visa program in 2014, building on the experience of its solidary resettlement program. Its beneficiaries are persons of Syrian nationality and their families, or persons with Palestinian Nationality that habitually reside or have resided in Syria and have received assistance by the UNRWA,¹⁰¹ who have been affected by the armed conflict in Syria. It is the first of its kind in the region as it is a community-based refugee sponsorship program in which individual sponsors (inviting families, civil society organizations or municipal authorities) provide housing and basic sustenance for twelve months or less when the refugee achieves self-reliance. Refugees also benefit from special institutional support as well as government social programs to facilitate their integration in the same conditions as Argentine nationals. This program is based on political and inter-ministerial articulation and partnerships among civil society, private individuals, as well as federal and local governments. Refugees have arrived through this program in different provinces throughout Argentina. UNHCR has been supporting Argentina’s Syria Program through the ERCM since 2017.

3.3. Regional developments

Following an express requirement included in the 2004 Mexico Plan of Action, the BPA recommended the reinforcement of existing training programs such as the “Regional Course on International Refugee Law”,

97 Over 150 officials have participated in several trainings organized by UNHCR regarding case identification and processing, security screenings, and community based sponsorship, including a study visit to Canada for government counterparts of Argentina, Brazil and Chile in May 2017.
 98 See § 4.2.2.
 99 See § 5.2.4.
 100 The Syrian Program, available [in Spanish] at: <http://www.migraciones.gov.ar/programasiria/>
 101 The United Nations Relief and Works Agency for Palestine Refugees (UNRWA).

with the coordination of the UNHCR. The XIII (2015), XIV (2016), and XV (2017) Courses were implemented in Curacao, Trinidad and Tobago and Aruba with the participation of governmental authorities from all Latin American and the Caribbean. All editions led to exchanges of experiences and challenges on refugee protection in sub-regional contexts. Discussions were held on a number of topics, including durable solutions and strategies and good practices on integration and resettlement.

In May 2016, the municipality of Porto Alegre, in **Brazil**, hosted the first regional meeting among “Champion cities” on the local integration of refugees and asylum seekers.¹⁰² Likewise, in August 2016, the municipality of Quilicura, in **Chile**, hosted an International Seminar “Migrants and Refugees: Human Rights and Local Governments”, which gathered around 250 participants.¹⁰³ These events enhanced information-sharing and coordination among municipalities on reception, integration and inclusion of refugees and asylum seekers. On these occasions, local governments also promoted the designing of common standards and criteria for the award of the “City of Solidarity” label.

In line with the BPA recommendation to develop refugee-inclusive public policies and strengthen local integration programs, some governments, in coordination with UNHCR, engaged in socio-economic studies between 2015 and 2017 to gather data on refugee profiles, to better identify needs and opportunities and therefore strengthen local integration strategies (**Argentina Bolivia, Chile, Peru** and **Uruguay**). A few countries also carried out market analyses to identify opportunities for labor insertion and self-employment for refugees and asylum seekers and to ensure a market-based approach in livelihoods-programs (**Argentina, Chile** and **Peru**).

3.4. Challenges identified in regional and thematic Consultations

During the regional and thematic Consultations, persistent challenges were highlighted on the different dimensions and types of durable solutions discussed.

3.4.1. With respect to documentation and access to rights:

- The high costs for changing migratory category, especially for large families;
- The discrepancies in the documentation granted to the applicants as opposed to the ones held by nationals that lead to discrimination;
- The long delays for obtaining permanent residence;
- The lack of information and inter-institutional cooperation, both in public and private sectors, on documentation and refugee status;
- Concerns were raised on the fact that naturalization should not represent the only option ensuring the effective realization of rights and access to services;

¹⁰² Including the participation of representatives from the municipalities of Quilicura (Chile), Desamparados (Costa Rica), Porto Alegre and Curitiba (Brazil), as well as staff from UNHCR offices in those countries.

¹⁰³ Including the participation of representatives from municipalities of Chile, and Upala and Desamparados (Costa Rica); Sao Paulo, Curitiba and Porto Alegre (Brazil); Mérida (Spain); and Houston (US), other governmental institutions, International Organizations (including UNHCR), embassies, civil society organizations and academia.

- Practical barriers that limit access to formal, safe and dignified employment, particularly affecting asylum seekers;
- Serious challenges to access decent, safe and adequate housing, basic services, particularly for women heads of household, moving alone, and responsible for the care of their children;
- Discrimination and stigma, particularly with respect to ensure safe jobs, preventing exploitation and salary discrimination, and to preventing and guaranteeing protection in cases of human trafficking; instances of discrimination, stigmatization, and xenophobia in the local communities;
- Limited number of State-run programs for the self-employment of refugees and asylum seekers that would transform them into agents of change along with the strong participation of the private sector through corporate social responsibility schemes.

3.4.2. With respect to solidarity resettlement:

- The high costs of resettlement and the difficulties in resettling numerous Syrian refugees in those countries of asylum that are already hosting a significant number of refugees;
- The language barriers for Syrian or African refugees; the lack of information about the country of asylum; the need to provide better support to families hosting refugees; the need to improve validation and recognition of diplomas; and the work in unworthy or precarious conditions.

3.4.3. With respect to alternative legal pathways for admission:

In some specific scenarios, mainly in intra-regional outflows, to avoid *refoulement*, some countries of the region granted temporal residence or humanitarian permits to persons that, although may have international protection needs, decide not to lodge asylum claim. While these measures protect from expulsion and deportation and ensure regular admission and stay in the territory, they do not, however, encompass consistent protection and solutions-oriented arrangements nor human rights safeguards in line with national and regional standards on refugee protection. In addition, the use of these arrangements should be without prejudice to the right to seek and be granted asylum, particularly in the case of non-renewal of residence permits.

3.5. Priorities

During regional and thematic Consultations, a number of priorities were highlighted as a way forward for the implementation of the BPA.

3.5.1. With respect to legal integration:

- Grant documentation for both refugees and asylum seekers that ensures access to socio-economic rights and basic services, such as health, education and employment;

- Consolidate registration and documentation systems in an expedited, individualized, free, and renewable in a long-term, without reference to the individual status;
- Facilitate procedures to change migratory status from temporary to permanent residence, including - when requested - facilitating the naturalization process, through simple, accessible, and low-cost procedures.

3.5.2. *With respect to socio-economic integration:*

- Implement and strengthen sustainable strategic public-private partnerships, with participation of civil society, refugees and asylum seekers;
- Raise awareness of local communities of the situation and difficulties experienced by refugees and asylum seekers, to counter discriminatory practices and social exclusion;
- Adopt or strengthen programs that promote the inclusion of refugees and asylum seekers in the national anti-poverty system;
- Promote inclusive public policies, addressed to both refugees and asylum seekers, based on human rights and on gender, age and diversity, including LGBTI persons, women victims of trafficking, children, girls, adolescents and indigenous peoples;



Rosa*, 36, from El Salvador and her son at work in a pastry shop in Chiapas, Mexico. © UNHCR/Markel Redondo
* name changed for protection reasons.

- Fight against labor exploitation, precarious and informal work, and promote effective access to regular income-generating activities with social insurance, in collaboration with the private sector;
- Promote access to governmental programs - on equal terms with nationals - that favor professional and vocational training for refugees and asylum seekers to seek employment and/or self-employment and promote access to banking services;
- Ensure access to education and university studies, and promote the validation and homologating of degrees obtained in the country of origin.

3.5.3. With respect to socio-cultural integration:

- Raise awareness of local communities on the difficulties experienced by refugees through cultural events - including the already existing cultural spaces - and with the participation of refugees and host communities; create spaces for the participation of refugees in public policies that affect their lives;
- Promote training and awareness of public officials, in particular at the local level, and encourage inter-ministerial coordination between national and local governments, as well as the interaction with public and private actors;
- Promote initiatives that show concrete evidence on how refugees contribute to the development and wealth of local economy.

3.5.4. With respect to resettlement programs:

- Consolidate and extend resettlement programs for refugees from different regions; Continue developing and exploring, within the region, all existing opportunities for resettlement, through the increase of quotas;
- Encourage developed countries to contribute to resettlement programs with greater economic and human resources, ensuring their sustainability and enhancing international, regional, bi-national coordination, according to the principle of shared responsibility;
- Carry out evaluations and assessments on the effectiveness of resettlement programs, including the need for readjustment; promote policies ensuring clear criteria for comprehensive resettlement, from the identification of candidates;
- Coordinate resettlement initiatives with civil society and host families to prepare them for the reception of refugees; provide psychological support and information on the country of asylum to resettled persons; promote inter-sectorial coordination, including the civil society and the private sector.

SOLIDARITY WITH THE NORTHERN TRIANGLE OF CENTRAL AMERICA

4. Solidarity with the Northern Triangle of Central America

4.1. Reference to the BPA

Chapter 4 of the BPA on Solidarity with the North of Central America (NCA)¹⁰⁴ highlights the need to implement regional actions to prevent displacement, protect victims and search for durable solutions. The BPA urges transit, origin and destination countries to take action and emphasizes the importance of including coordination mechanisms to ensure coherence and strength. Chapter IV includes the following three programs:

- The “Human Rights Observatory on Displacement” Program: to set up a common system for the analysis of quantitative and qualitative data on displacement in Central America;¹⁰⁵
- The “Prevention” Program: to strengthen national protection and assistance mechanisms for populations in vulnerable situations;¹⁰⁶
- The “Dignified and Safe Transit” Program: to improve access to differentiated and quality procedures for refugee status determination and to disseminate and take into account the

¹⁰⁴ While ‘Northern Triangle of Central America’ is the term adopted in Chapter Four of the Brazil Plan of Action, ‘North of Central America’ is the geographical reference commonly embraced in recent years and, as such, will be used in this section.

¹⁰⁵ To be done in the framework of the Cooperation Agreement between SICA and UNHCR, and that will help orient public policies and regional coordination and cooperation.

¹⁰⁶ It includes actions such as the design and implementation of protocols for the registration of victims and displaced persons; coordination between human rights institutions and the competent State agencies responsible for the welfare of children returned or deported and reunified with their families; the development and implementation of assistance programs for victims of violence perpetrated by organized criminal groups; and the provision of training and increased human and financial resources for national institutions for the protection of women and children.

“UNHCR Guidance Note on Refugee Claims Relating to Victims of Organized Gangs”;¹⁰⁷ to promote safer border areas.¹⁰⁸

4.2. General overview of the progress made

Since the adoption of the BPA, several processes, on the NCA situation, have been undertaken and have resulted in new and renewed commitments. The Governments of **Belize**,¹⁰⁹ **Canada**, **Costa Rica**, **El Salvador**, **Guatemala**, **Honduras**, **Mexico**, **Panama** and the United States of America met in San Jose, Costa Rica in July 2016 during the High Level Round Table discussion: “Call to Action: Protection Needs in the North of Central America” and agreed to strengthen protection responses for forcibly displaced persons from the NCA.¹¹⁰

During 2017, Belize, Costa Rica, Guatemala, Honduras, Mexico and Panama expressed their intention, before the High Commissioner to work on a regional, practical and detailed application of the Comprehensive Refugee Response Framework (CRRF), in line with Annex 1 of the New York Declaration on Refugees and Migrants, through the adoption and implementation of a “Comprehensive Regional Protection and Solutions Framework” (CRPSF, or MIRPS, by its acronym in Spanish). The MIRPS was agreed in October 2017 during a Regional Conference in San Pedro Sula and through the adoption of the San Pedro Sula Declaration.¹¹¹ States specifically committed to the full implementation of their respective national chapters that identify a series of specific and executable actions within the four pillars of the CRRF in the 2018 – 2020 period, strengthening regional cooperation.

4.2.1. The “Human Rights Observatory on Displacement”

Following the adoption of the BPA, the General Secretariat of the Central America Integration System (SG-SICA, for its acronym in Spanish) and UNHCR initiated a process of consultations and conceptualization of a “Human Rights Observatory on Displacement” (“the Observatory”). The first consultation took place in June 2015 with the Central America Security Commission, which recommended SG-SICA to coordinate with relevant regional processes to support the implementation of the agreements and commitments established in the BPA, including the Observatory. Follow-up consultations were held with the Central American Committee of Statistics (CENTROESTAD) and with the Central American Commission of Migration Directors (OCAM), where areas of collaboration and potential synergies were identified. An initial roadmap and draft concept note were developed by SG-SICA and UNHCR, describing the objectives and expected results of the project, as well as its financial requirements. At the operational level, the Observatory was conceived as a component within SICA’s Observatory and Index on Democratic Security (OBSICA). The commitment to implement this project has been reiterated by SG-SICA during their participation in the above-mentioned High-Level Roundtable “Call to Action: Protection Needs in the North of Central America” and within its commitments to the MIRPS.

¹⁰⁷ Since the adoption of the BPA, UNHCR has published specific eligibility guidelines for Assessing International Protection Needs of Asylum-seekers from Honduras, El Salvador and Guatemala.

¹⁰⁸ By promoting: better understanding among people of their right to seek international protection; the training of border officials on national mechanisms for refugee status determination, particularly concerning accompanied and unaccompanied children; and a rights-based approach that includes the design of procedures based on the best interests of the child.

¹⁰⁹ The Government of Belize did not attend the San Jose meeting in person, but participated by sending written commitments.

¹¹⁰ See San Jose Action Statement, 7 July 2016, available at: <http://www.refworld.org/docid/57a8a4854.html>

¹¹¹ See San Pedro Sula Declaration, supra note 8.

4.2.2. The “Prevention” Program

- **Protection and assistance to victims of violence, including those internally displaced:**

In 2017, **Honduras** started a process for updating the profiling on internal displacement, offering a more comprehensive vision of the problem in terms of causes, magnitude, profiles and impact on the population concerned. National Response Capacity was reinforced with the creation of the Directorate for the Protection of Internally Displaced Persons (IDPs) in November 2017 as part of the Human Rights Secretary that will have a specific unit for registration and assistance to IDPs.¹¹² **Honduras** has also committed to adopt a legal framework on internal displacement and since 2016 has engaged in the drafting of a bill on the “Law for the Prevention and Protection of Internally Displaced Persons”, which is in the process of being submitted to the National Congress.¹¹³



Fernanda and her two sons left El Salvador after her brother in law was killed. © UNHCR/Encarni Pindado

In 2015, the Government of **El Salvador** adopted the “El Salvador National Security Plan” (PESS for its acronym in Spanish) to improve security in El Salvador. The PESS was developed by the National Council on Citizens Security and Coexistence and includes a chapter (Axis 4) that focuses on the protection of victims of violence, recognizing that the high levels of violence and criminality in the country have an adverse impact on the rights of the citizens, causing damage to their physical and psychological integrity and their material assets.¹¹⁴ In order to guarantee the restitu-

tion of their rights and to reduce the damage caused by the impact of violence, the Government of El Salvador - under the leadership of the Directorate on Assistance to Victims of the Ministry of Justice and Public Security – established nineteen Local Assistance Offices for Victims (OLAVs by its Spanish acronym) in several prioritized municipalities, where victims of violence are registered. In late 2017, the Vice Minister of Justice and Public Safety reported that the OLAV offices at a national level provided a total of 4,734 types of assistance to victims of violence.

In relation to HLP rights the government of Honduras with technical support from UNHCR (through

112 Established by Decree Number 055/2017, creating the following units: i) Reception and analysis of cases; ii) Implementation and monitoring of measures / assistance; iii) Prevention and Protection; and iv) Registration and information. The findings from the Profiling update will guide the design of the Registration system in the country.

113 The Draft “Law for the Prevention, Care and Protection of Internally Displaced Persons” is the product of a highly participative and constructive process, developed with various governmental institutions.

114 The National Council’s members include representatives of State authorities, local authorities, political parties, religious institutions, civil society, international organizations, private business and the media.

exchange missions in Colombia) and in coordination with the Inter-institutional Commission for the Protection of IDPs started the discussion on registration of abandoned property due to forced displacement. The Government of Honduras reaffirmed its commitment regarding the design of a registration system of abandoned property by including it in the national chapter of the MIRPS.

In October 2017, the Constitutional Chamber from the Supreme Court of Justice in **El Salvador** requested the government develop and implement security and protection measures for victims internally mobilized due to violence. At the same time, an assessment within the Ministry of Justice and Public Safety, and the DIGESTYC, was near completion in 2017. Its results will provide information to guide legislative and policy efforts. This roadmap for inter-institutional coordination for the comprehensive assistance and protection of displaced persons is expected to strengthen the national response and protection to victims of violence as well as improve coordination between national instructions, UN agencies and civil society.

Memorandums of understanding between UNHCR and local governments were signed to strengthen the relationship between Ministries of Foreign Affairs and UNHCR (**Honduras** and **Guatemala**), including support in the implementation of the PTA.¹¹⁵ The PTA is an innovative life-saving mechanism that provides individuals exposed to extreme risks with safe and legal access to a durable solution in a resettlement country, via a country of transit. The PTA pilot started in El Salvador in July 2016. The PTA has since also become fully operational in Guatemala and Honduras. In addition, in 2017 the program was further extended to three new countries of destination, with Canada, Australia and Uruguay also receiving a number of PTA cases. Further expansion to include Brazil and Argentina is envisaged in 2018.

The PTA Program

A total of 321 persons were submitted to **the PTA program**, and a total of 126 persons were transferred to **Costa Rica** in 2017 and resettled to the United States, Australia, Canada or Uruguay. In **El Salvador**, state institutions such as the Ombudsman's Office, the Office of the Attorney General, and the Prosecutor's Office are key actors in the identification and follow up of cases. In **Guatemala**, where around 60% of identified cases concern witnesses in criminal proceedings against organized crime, the PTA represents an important tool to ensure their physical protection. In **Honduras**, the PTA is anchored in a broader system of complementary protection measures aimed at ensuring physical protection and durable solutions. Costa Rica's role as a transit country was consolidated in 2017 reaffirming its commitment to enhance solutions for persons at risk in need of international protection.

- **Support to returnees:**

A number of initiatives have been implemented aimed at generating a national approach to the social and labor inclusion of the returned migrant population, either through the adoption of legal frameworks allowing the implementation of self-reliance projects of returnees with protection needs (**El Salvador**,¹¹⁶ **Honduras**¹¹⁷), or by launching specific programs in close collaboration with national

115 See also § 3.2.3.

116 Through the above-mentioned program "El Salvador es tu casa";

117 Protection of Honduran Migrants and their Families Act (*Ley de Protección de los Hondureños Migrantes y sus Familiares*, Decreto No. 106-2013, available at: <https://www.tsc.gob.hn/biblioteca/index.php/leyes/538-ley-de-proteccion-de-los-hondurenos-migrantes-y-sus-familiares>

institutions, civil society, private sector and the returnees themselves (**El Salvador, Guatemala**¹¹⁸). Additionally, in **Honduras** access to employment and decent and suitable livelihoods has been facilitated through the Municipal Returnee Assistance Units (UMAR, by their acronym in Spanish).

In 2017, in line with its commitments with regard to the BPA, **El Salvador** adopted the program “El Salvador is your home” (*El Salvador es tu casa*) as a system providing public assistance and services to the returnees. This program includes access to services and support also in foreign countries through consular assistance, in order to facilitate the return of identified persons. As such, the person to be returned is registered and is granted proper documentation. Additionally, one OLAV was created within the premises of the Directorate for Migrants Assistance (DAMI) that belongs to the General Directorate for Migration (DGME) (the reception center for deported persons).

In **Guatemala**, a reception center for deportees in Tecun Uman was established in 2015 and a technical inter-institutional working group on migration was created with the participation of public institutions, civil society and international organizations. Several authorities such as the National Police, Officials from the Secretary of Social Welfare, the Migration Department and the General Prosecutors Office pursued a capacity building program focus on the reception and assistance to deportees with protection needs.

With regards to identification, reception and referral of returned children in need of protection, local institutions have established specific guidelines that have improved the protection response through the establishment of differentiated mechanism (**El Salvador** and **Honduras**) in collaboration with Care Centers. In Honduras, specific operating procedures destined to identify returned children and families at risk are being implemented in the reception center of El Belen since 2016, where children and family units are received. Thanks to this screening procedure, about 11 percent of deported children are identified as children with protection risks and referral pathways for their support are being strengthened.

The Assistance Centers for Childhood, Adolescence and Family (CANAF)

Three Assistance Centers for Childhood, Adolescence and Family (CANAF, for its acronym in Spanish), administered by the Salvadoran Institute for Children and Adolescents (ISNA, for its acronym in Spanish) were created in **El Salvador** to provide services to deported children and adolescents with the objective of facilitating their reintegration in the country. The CANAF are physical spaces with multidisciplinary teams (psychological and legal) located in three departments with high rates of returned children. These centers were created within the framework of the Law for the Comprehensive Protection of Children and Adolescents (LEPINA, for its acronym in Spanish) and have already provided assistance to returned children with protection needs.¹¹⁹ Additionally, a Specialized Unit for Children within the Attorney General’s Office (PGR by its Spanish acronym) was created, framed in the Organic Law of the PGR and the protection mandate of the LEPINA.¹²⁰ The principle of the Best Interest of the Child was included within their internal protocols. In July 2017, the Family Unit of the PGR was separated into a Specialized Family Unit and a Specialized Children Unit to respond to the PGR’s institutional commitment with the LEPINA law and the international principles of providing a specialized response to children.

118 On 7 March 2017, Guatemala launched the “Guatemala includes you” (*Guate te incluye*) programme, available at <http://www.avina.net/avina/guatemala-lanzan-programa-guate-te-incluye-migrantes-deportados/>

119 Ley de Protección Integral de la Niñez y Adolescencia, Decreto No. 839, available at: <https://www.asamblea.gob.sv/sites/default/files/documents/decretos/FC3868B6-5FEA-440B-9949-414222C42FFD.pdf>

120 Ley orgánica de la procuraduría general de la república, Decreto No. 775, available at: https://www.oas.org/dil/esp/Ley_Organica_de_la_Procuraduria_General_de_la_Republica_El_Salvador.pdf

- **Capacity building and financial resources for national institutions for the protection of women and children:**

In **Honduras**, the promotion of awareness campaigns and political advocacy around internal displacement has been a fundamental element in the CIPPDV's work plan since 2016. This has been achieved through the establishment of spaces for dialogue and training with officials and civil servants of different State institutions, including women and national institutions for the protection of children.

In **El Salvador** and **Honduras**, inter-institutional Best Interest Determination (BID) panels have been established to guarantee best interest procedures. Case management systems have been enhanced to reinforce the implementation of durable solutions for high risk Child Protection cases. Community-based protection has been strengthened through youth programming and schools based interventions facilitating youth and child participation. Child welfare entities have pursued trainings on interview techniques, community-based interventions and BID that have increased the practical exercise of Best Interest Assessors and documenting Child Protection needs.

In **El Salvador**, the Salvadorian National Institute for Women Development (ISDEMU, for its acronym in Spanish) has been strengthened through a capacity-building program to reinforce the identification, documentation and protection of deported women with protection needs as well as to reinforce the referral system and the assistance to SGVB survivors. SGBV prevention programs have been taking place and child friendly spaces have been set up.

In **Guatemala**, the General Attorney's Office and the Secretariat for Social Welfare signed a Memorandum of Understanding with UNHCR to strengthen the institutional capacity for the identification, coordination with other authorities and implementation of protection responses involving unaccompanied and separated children (UASC) including, refugees and asylum seekers, Guatemalan deportees with specific protection needs, children in transit with international protection needs. In 2016 the Secretariat of Social Welfare reinforced the institutional response by integrating a specialized shelter for Unaccompanied Children (UAC), asylum-seekers, refugees and children in transit into the national Child Protection network and allowing the General Attorney's Office to recommend the referral of UAC to this shelter by Judges for Infancy and Youth. The Secretary of Social Welfare is also participating in the development of the national program for foster families for UAC.

4.2.3. "Dignified and Safe Transit" Program

- **Differentiated and quality procedures for Refugee Status Determination procedures (RSD):**

Various efforts and achievements in developing concrete actions in order to enhance the quality procedures for refugee status determination are worth reporting.

Guatemala approved the Decree 44-2016 of the "Migration Code" that establishes the recognition of refugee status, diplomatic asylum and humanitarian assistance granting asylum seekers the

right to work, as well as a more favorable migratory status to asylum seekers and refugees.¹²¹ To better respond to new arrivals, **Belize** reinitiated its Refugee Eligibility Committee in mid-2015, and re-established the Refugees Department a year later and will also consider joining the regional QAI in order to promote strengthening of its asylum process.

Costa Rica, Mexico and **Panama** continued with the implementation of the QAI to enhance their asylum systems. The three countries are systematically using the “UNHCR Guidance Note on Refugee Claims Relating to Victims of Organized Gangs” as well as the “Eligibility Guidelines for Assessing International Protection Needs of Asylum-seekers from Honduras and from El Salvador”, in RSD assessments. Civil servants from asylum offices in Mexico, Canada and Costa Rica have participated *in-situ* visits to NCA countries (**El Salvador** and **Honduras**) and several capacity building activities, including workshops on RSD for eligibility officers (**Costa Rica, Mexico** and **Panama**).

As part of the differentiated procedures, **Panama** reviewed the registration form and created a specific child-friendly version for refugee children and National Office for Assistance to Refugees (ONPAR, for its acronym in Spanish), staff was specifically trained on interview techniques with children. A protocol between the Child Protection Authority (SENNIAF-for its acronym in Spanish) and ONPAR, for identification and referral, was finalized but yet pending signature.¹²²

At the sub-regional level, in 2017, the third Workshop of National Commissions of Refugees of Mesoamerica was organized by, the SICA and the Government of Panama, as *Pro-Tempore* Presidency of SICA, in the context of the Cooperation Agreement between SICA and UNHCR. Government officials from **Belize, Guatemala, Mexico, El Salvador, Panama** and **Dominican Republic** participated in the workshop. The space facilitated exchange of good practices on RSD, with particular emphasis on asylum claims from NCA countries.

First Handbook for Refugee Status Determination

Mexico finalized in August 2017 the first Handbook for Refugee Status Determination in Mexico. This is the first of its kind in Latin America and will serve as a guide for training the eligibility officers. Of particular note is Chapter 6, which offers guidelines for the application of the broader refugee definition.¹²³ Mexico has also developed, in collaboration with UNHCR, a virtual course on international protection addressed to officers of the National Institute for Migration (INM, for its acronym in Spanish), which is focused on persons in need of international protection and access to the asylum procedure.

- **Access to asylum systems in border areas:**

In **Mexico**, 2,705 officials of the National Institute of Migration and the National System for the Family Comprehensive Development (SNDIF, for its acronym in Spanish) have been trained on the Initial Evaluation Protocol for the Identification of Signs of International Protection Needs. **Panama** included international standards of refugee law in the training curricula of the border authority (SENAFRONT for its acronym in Spanish) and created a simplified guide on access to territory and refugee rights for dissemination among its staff. **Costa Rica** provided trainings to the staff working

121 Código de Migración, Decreto 44-2016, available at: <http://www.acnur.org/fileadmin/Documentos/BDL/2017/10978.pdf>

122 See also §8.3.1.

123 Article 13, section II of Mexico's Law on Refugees, Complementary Protection and Political Asylum.

in the Centers for Migrants' Care (CATEM, for its acronym in Spanish) on international protection and refugee rights. **Belize** supported training of Immigration Officials, including those posted at the Western Border. In **El Salvador**, forty-five border officials (including staff from the General Directorate of Migration, the National Civil Police and Customs) were trained on the relevant international and national legal standards for the protection of asylum seekers and refugees, including their identification at the border and referral to the national asylum system.

From November 2016, **Mexico** provided human and material resources to facilitate the expansion of the presence of the National Commission on Refugee Aid (COMAR, for its acronym in Spanish) and efficiency in RSD.¹²⁴ In **Costa Rica**, since the implementation of the QAI, asylum claims can be registered at border points and are referred to RSD procedures.

Protocols for identification and referral of persons with international protection needs in border areas are in place in **Costa Rica** and **Mexico**. In **Panama**, two protocols were drafted between ONPAR and the public institutions with border control competencies,¹²⁵ and are pending signature and implementation.

At sub-regional level, as part of the program "Prevention of crimes linked to irregular migration in Mesoamerica", implemented by the Organization of American States (OAS), two workshops on the identification, reference and assistance of people in need of international protection in border areas were held in 2017.¹²⁶

Costa Rica is implementing, two specific protocols for the identification and referral to appropriate differentiated procedures in the border areas, one for children, and one for survivors of SGBV and victims of human trafficking.

"Yes, I feel secure here, because in Costa Rica is safer in this. In El Salvador I got up with the fear that they could do something to me or to my family. In Costa Rica there are more opportunities because children can do more things: go to the park and go for a walk. In El Salvador you can not do that"

Carlos, 11 years old, from El Salvador

Written materials (leaflets, posters, banners, etc.) on asylum procedures for persons of concern were developed and disseminated (**Costa Rica, Guatemala, Mexico, and Panama**).¹²⁷

In **Guatemala**, the Commission for the Comprehensive Care of Migrant Children and Adolescents created specialized teams in the reception of vulnerable persons in transit, including children, adolescent and family units in border areas and the capital.

In **Mexico**, since July 2016, 2,429 asylum seekers have benefited from alternative accommodation

¹²⁴ Namely in the Chiapas Delegation, as well as the establishment of a Liaison Office in Tenosique, Tabasco.

¹²⁵ SNM and SENAFRONT.

¹²⁶ One with the participation of government officials from Costa Rica and Panama, and another for Panama institutions.

¹²⁷ In Mexico a specific material addressed to children was also developed and translated into English and French. Panama and Mexico also produced videos explaining the various stages of the procedure, to be circulated in Asylum offices, UNHCR offices and organizations. Mexico donated over 70 screens to civil society organizations, including shelters and community centers, to showcase the information videos.

to detention through a program established by INM and COMAR, a measure that is applied generally to all applicants and allows for release of asylum seekers from detention to shelters run by civil society organizations. In 2016, COMAR published a Protocol for the identification of UAC in need of international protection, and organized with UNHCR and UNICEF a number of joint capacity building activities for its implementation. Also in 2016, the local authorities of Tabasco inaugurated the only open-door government-run shelter for refugee and asylum-seeking UAC that focus on promoting their local integration.

“We could not keep our tears. We had managed to get to Mexico but we had no idea where to go or what to do. At that time we did not know that we could have protection in Mexico as refugees”

Elena, 46, single mother of three, from El Salvador

In **El Salvador**, the authorities, conducted capacity development activities for its consular network in countries of destination, to enhance knowledge and tools for adequate referral of those nationals with potential international protection needs to the national asylum system of the country.

“Confía en el Jaguar” Initiative

Since November 2017, government entities from **Mexico** and **Guatemala**, with the support of UNHCR, are implementing **“Confía en el Jaguar”**, a mass information initiative aimed at Central American refugees. The campaign is being implemented through Facebook and promoted through offline channels such as brochures, plaques, banners in border areas and shelters. Its main objective is to inform asylum seekers and persons in need of protection of their right to seek asylum, their human rights and access to protection during their transit. The campaign, through its Facebook page, publishes information and also responds to questions in real time through inbox. In February 2018, over 350,000 users were reached with information posts on the right to seek asylum, safe spaces along the route, and other relevant information. Since its launch, the Facebook page has received eighty-six queries through the inbox; the questions are in its majority about the asylum procedures in Mexico, Panama and Costa Rica; and basic information on how to find shelter and access to services during their transit. A possible expansion to Belize and El Salvador is being considered to reach more persons of concern.

4.3. Other positive developments

4.3.1. The GREAT MIRPS Network

The Specialized Group of Academics Working for CRPSF (called GREAT MIRPS following the Spanish version) was created in 2016. The Group will be coordinated as a subgroup under the ANRLA,¹²⁸ focusing on the MIRPS for Central and North America.

¹²⁸ See § 2.3.

The GREAT MIRPS is committed to strengthening and developing the following activities related to the implementation of the MIRPS, under the coordination and with the support of the ANRLA Secretariat. It works in the area of reception and admission of people in countries of transit and asylum, in the area of support for immediate needs and for host communities as well as in the area of durable solutions. Its main objectives include the development of comprehensive and multidisciplinary studies on the situation in Central America and its impact in North America, including the creation of a platform for systemization of existing studies and diagnoses on displacement in NCA and the dissemination of information on the applicability of relevant national and international instruments and regulatory frameworks and provide studies and comparative research on displacement.

4.3.2. Profiling studies

Some positive developments relate to the publication of profiling studies led by the Governments of **Honduras**¹²⁹ and of **El Salvador**, which provide a snapshot of the magnitude, trends and situation of persons internally displaced. There are also reports from Ombudsman's Offices as well as from Civil Society Organizations, which provide useful information on the trends and characteristics of internally displaced persons that seek assistance.

4.4. Persistent challenges

4.4.1. With respect to the "Human Rights Observatory on Displacement"

- Despite the progress made regarding the conceptualization of the Observatory, a number of challenges persist at the technical, operational and political level and have prevented the full implementation of the Observatory program;
- At the technical level, there is a lack of comprehensive and regularly updated data to track and monitor forced displacement flows and trends in NCA countries. Although Governments in the region regularly share relevant and updated statistics with UNHCR, there are remaining gaps regarding data on IDPs as well as on returned and deported persons in need of protection;
- At operational level, the key challenge relates to scarce resources needed to implement and maintain a mechanism of this nature. The Observatory might be established within the OBSICA, although this was only re-activated in 2017 and still requires additional funding and staffing for its regular operations;
- Finally, at political level, the successful implementation of the Observatory is still lacking ownership and support from all the concerned States in the region, including those of origin, transit and destination of forced displacement flows. Intensified efforts are needed to raise awareness on the importance of having an Observatory of this nature as a tool to inform decision-makers with evidence-based inputs in all concerned States, as well as to support the design of regional responses and initiatives.

¹²⁹ The updating process of the Idps profiling started in November 2017 and continues in 2018.

4.4.2. With respect to the “Prevention” Program

- Despite the progress made since the adoption of the BPA, challenges still persist with regards to the prevention of forced displacement;
- The steady high levels of violence continue to pose many challenges for the NCA countries. Although progress has been made on measuring its impact, the lack of reliable and dynamic data and indicators to monitor the situation continues to be a main challenge in the three countries leading to an underreported protection crisis and a hidden phenomenon difficult to identify. Access to communities at high risk continues to be extremely difficult for all stakeholders involved in the protection of and assistance to victims of violence;
- The on-going arrival of returnees, mainly from Mexico and the United States, stress the already stretched institutional capacity for reintegrating socially and economically these persons, and as migration stops being a viable option for many, the incentives to join informal and/or illegal activities will increase;
- During the consultations with persons affected by displacement in the NCA, many referred to the need to access employment and gain more opportunities for their reinsertion as one of the main challenges, although the government-run programs elaborated in **the three NCA countries** enabled the development of self-reliance for returned migrants with protection needs. Also, some people mentioned obstacles in their integration into host communities related to the stigmatization and discrimination associated with their status as displaced persons.

“All this is because my gender identity differs from the traditional one”, says Nelia, who was stabbed 58 times in different attacks. Now she lives in a shared room in a city in southern Mexico.

Nelia, trans woman, El Salvador

4.4.3. With respect to the “Dignified and Safe Transit” Program

- The escalation in the number of asylum seekers in Mexico, Guatemala, Belize, Costa Rica and Panama is challenging the institutional capacities and is creating a significant backlog, especially in Mexico, Panama and Costa Rica. This is negatively impacting the length of the procedures that can take up to several months and in some cases even years;
- Despite the general respect of the fundamental principles of *non-refoulement* and non-penalization for irregular entry, some practices related to existing deadlines for the submission of asylum applications, misleading information among the persons of concern about the possibility to seek asylum, or the lack of clear referral pathways among different State entities with asylum and border control competencies, remain a serious challenge to ensure effective compliance with the *non-refoulement* principle;¹³⁰

¹³⁰ As an example, the new Migration Code in Guatemala includes some provisions containing breaches to the principles of *non-refoulement* and non-penalization for irregular entry. Jointly with the UN Specialized Group on Migration, UNHCR and other agencies developed technical advisory opinions to support authorities in the transitional process. UNHCR is offering technical support for the authorities to draft new asylum regulations, compliant with international standards and the new legal framework.

- The need to continue strengthening inter-institutional coordination mechanisms was identified with the intention of improving the conditions of access to RSD procedure;
- Opportunities for improvement persist with regards to the existing protection responses for the most vulnerable groups, including: prioritized assistance in the submission of applications and in the adjudication; swift procedural referrals for medical or safety reasons; face-to-face interviews for children and adolescents as well as gender sensitive procedures for LGBTI persons and survivors of SGBV; and lastly, enhanced existing programs for alternatives to administrative detention.

4.5. Priorities

4.5.1. *With respect to the “Human Rights Observatory on Displacement”:*

- Support the development and/or enhancement of registration systems for displaced persons and victims of violence in NCA countries, ensuring the communication and inter-operability of systems managed by different State institutions;
- Conduct consultations with concerned States and relevant regional forums to ensure political buy-in and support for the program;
- Actively engage in fundraising activities to secure the resources needed;
- Identify possibilities of cooperation between SICA’s regional observatory on security and SISCA’s observatory on social development (OCADES) to support the Observatory;
- Identify synergies with relevant actors working in the development of monitoring tools or data collection initiatives of forced displacement flows in the region, particularly those promoted by Ombudsman’s Offices, civil society organizations, academia, international and multilateral organizations.

4.5.2. *With respect to the “Prevention” Program*

- Enhance the identification procedures of returnees in need of protection to guarantee a comprehensive and inter-institutional response;
- Strengthen assistance to returnees in need of protection to cover their needs for shelter, food and healthcare in the short and medium term;
- Include returnee’s children in the prevention and protection mechanisms in the communities concerned;
- Implement an assistance and protection plan that facilitates reception, assistance and referral of cases of internally displaced persons, and strengthen technical and financial capacities of relevant government institutions;

- Continue strengthening State presence in communities at risk, developing prevention and protection programs that are differentiated by risk causes and profiles;
- Develop a communication and awareness raising strategy on the rights of internally displaced persons, returnees and deported populations in collaboration with local governments;
- Implement a national protection system for internally displaced persons that includes the development of legal frameworks and public policies, ensuring access to rights and the promotion of spaces for dialogue and consultation with displaced population;
- Support the UNDG LAC Joint Initiative as a comprehensive means of reducing violence in the NCA;
- Implement and scale up the sub-regional Peace Building Fund project aimed at reintegrating deportees and strengthening their national protection;
- Harmonize existing guidelines for the identification of deported persons with protection needs defining specific referral and follow up mechanisms;
- Develop Early Warning Systems (Honduras), to guarantee effective response from the government and civil society in high-risk situations improving preparedness and contingency planning.

4.5.3. With respect to “Dignified and Safe Transit” Program



Salvadoran refugee children watch TV at the shelter where they have been living for the last few months in Chiapas, Mexico. © UNHCR/Markel Redondo

Differentiated and quality RSD:

- Reinforce RSD processing capacity of the national asylum institutions (increase number of eligibility officials);
- Strengthen coordination between National Institutions in charge of eligibility and National Migration and Border Control Institutions to ensure a rapid and smooth access to asylum procedures;
- Ensure the decentralization of reception and registration at the borders;
- Strengthen actions for the early identification of specific needs that will activate differentiated protection mechanisms for vulnerable asylum seekers;
- Continue ensure efforts to implement an effective asylum system, including by participating in the Quality Assurance Initiative for refugee status determination.

Understanding rights and protections:

- Provide regular and comprehensive information to persons of concern about their rights and obligations, particularly in relation to admission to territory, asylum processes and assistance systems for asylum seekers and refugees.

Training border officials on RSD and refugee rights:

- Strengthen capacity building for government authorities at all levels, with an initial prioritization of those who are the gatekeepers to accessing territory and asylum processes, respectively;
- Include international and national refugee law in the curricula of training services for authorities involved in border control and migration issues;
- Train and raise awareness of officials working with migrant populations, for a comprehensive approach that takes into consideration the age, gender and diversity of persons on the move, paying special attention to UAC, women at risk, the LGBTI population, victims of human trafficking, and elderly and disabled persons.

Rights based approach through the Best Interest Determination processes:

- Continue to increase the number of alternatives to administrative detention for asylum seekers, primarily for UAC, families, persons in a vulnerable situation, the elderly and persons in need of medical and health care;
- Strengthen leading institutions in the protection of children and adolescents, especially in border areas;
- Strengthen the coordination between National Institutions in charge of eligibility, National Migration Institutions and Child Protection institutions to ensure practical application of the best interest of the child during all administrative and protection procedures;
- Restructure, adapt, develop and/or strengthen the assistance of children and adolescents in need of protection who have returned or are in transit.

REGIONAL SOLIDARITY WITH THE CARIBBEAN

5. Regional Solidarity with the Caribbean

5.1. Reference to the BPA

Chapter 5 of the BPA, “Regional Solidarity with the Caribbean,” recognizes the special challenges faced by Caribbean countries related to mixed migratory movements, given the need to find a balance between ensuring the integrity of its extensive maritime borders and addressing the protection needs of an increasing number of refugees and asylum-seekers in the region.

In a renewed spirit of regional cooperation, the “Regional Solidarity with the Caribbean” program is a framework for overcoming these challenges and strengthening the protection and solutions agenda for asylum-seekers, refugees and stateless persons, through measures that would ensure phased, coherent and sustainable progress, and take into account the specificities of each country. This program’s main objective is to promote a regional dialogue through the establishment of a Regional Consultative Mechanism (RCM) for the efficient management of mixed migration, which would: (1) strengthen regional cooperation in the management of mixed migration movements through rights-based approaches, in order to increase national and regional capacities; (2) progressively establish asylum systems and refugee status determination procedures; and (3) formulate programs that promote comprehensive durable solutions, with a focus on local integration.

5.2. Progress made in the implementation of “Regional Solidarity with the Caribbean”

Since the adoption of the 2014 BPA, Caribbean countries have achieved significant progress related to the goals set forth in the “Regional Solidarity with the Caribbean” program, demonstrating commitment to the implementation of the BPA and the development of good practices related to refugee protection in the region. Caribbean countries have also made progress related to matters of statelessness, which are further elaborated in Section VI of this Report.

5.2.1. Promote a regional dialogue through the establishment of a Regional Consultative Mechanism (RCM)

Caribbean States achieved the main objective of the “Regional Solidarity with the Caribbean” program in 2016 through the establishment of the **Caribbean Migration Consultations (CMC)** as a Regional Consultative Process for the Caribbean on refugee protection and migration issues. This State-led regional policy dialogue focuses on coordinated, rights-based and effective management of issues related to forced displacement and migration in the region. The CMC provides a regional platform for Caribbean countries to discuss common challenges and promote consistent approaches towards migration, including the situation of vulnerable migrants, refugees and stateless people. It also aims at strengthening partnerships, increasing capacity-building opportunities and promoting innovative ways of responsibility sharing.

The first step in the implementation of this objective was marked by the “Preparatory Meeting for the CMC,” which was hosted by the Government of **Belize** in January 2016, with the support of UNHCR and the International Organization for Migration (IOM). Eight “Champion Countries”¹³¹ were represented, that identified key substantive themes to be further discussed in the framework of this new regional forum¹³². States highlighted the need for developing rights-based migration policies as the foundation for the comprehensive and effective management of mixed migration.

The “First Technical Meeting of the CMC” was hosted by the Government of **Trinidad and Tobago** in December 2016, with the participation of a total of twenty Caribbean countries and the Caribbean Community’s (CARICOM) Implementing Agency for Crime and Security (IMPACS).¹³³ The meeting consisted of two days dedicated to refugee protection, with the support of UNHCR, and two days dedicated to border management, collection and sharing of data and intelligence on migration-related issues, with the support of IOM. Throughout this First Technical Meeting, States strongly welcomed the CMC as a forum for the discussion and exchange of information related to refugee protection and comprehensive migration management, and adopted key conclusions and priority issues to be addressed in the framework of the CMC.¹³⁴

¹³¹ Aruba, The Bahamas, Belize, the Cayman Islands, Jamaica, Guyana, Trinidad and Tobago, and the Turks and Caicos Islands.

¹³² Update link when the concluding note is on RefWorld.

¹³³ Antigua and Barbuda, Aruba, The Bahamas, Barbados, Belize, the British Virgin Islands, the Cayman Islands, Cuba, Curacao, the Dominican Republic, Grenada, Haiti, Jamaica, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, and the Turks and Caicos Islands were represented. CARICOM IMPACS, the Embassy of the Netherlands in Panama and the Embassy of the United States in Trinidad and Tobago were also in attendance.

¹³⁴ Update link when the concluding note is on RefWorld.



Representatives of The Bahamas, Trinidad and Tobago, Antigua and Barbuda, and Suriname delivering presentations. © UNHCR/Cristopher Plakaris.

The “Second Meeting of the CMC – Refugee Protection” was hosted by the Government of **The Bahamas** in December 2017. Eighteen countries,¹³⁵ the CARICOM Secretariat and CARICOM IMPACS participated in the meeting, during which delegations discussed key developments in the region related to refugee protection, statelessness and large-scale forced displacement, and contributed to the triennial evaluation of the Brazil Plan of Action.

5.2.2. Strengthen regional cooperation in the management of mixed migration movements through rights-based approaches

The BPA sets out the goal for the Caribbean to strengthen cooperation between countries of origin, transit and destination for asylum-seekers and refugees in order to increase capacities to optimize the management of mixed movements and implement comprehensive responses within a rights-based framework.

In addition to the CMC, Caribbean States have highlighted their engagement in multiple forums that promote regional cooperation and capacity building, including engagement with the CARICOM, Standing Committee of Chiefs of Immigration and Comptrollers of Customs, the CARICOM IMPACS and the Joint Regional Communications Centre (JRCC), which have served to exchange technical advice, intelligence and analysis on migration-related issues.

States also participated in regional trainings that facilitated the exchange of best practices within the Caribbean and capacity building related to refugee protection, such as UNHCR’s Annual Regional Courses on International Refugee Law and Statelessness for Latin America and the Caribbean (hosted by **Curacao** in September 2015, **Trinidad and Tobago** in September 2016, and **Aruba** in June 2017); the 2015 “Second Alternatives to Detention Global Roundtable” (the **Cayman Islands** and **Trinidad and Tobago**); the Caribbean Regional Workshop on Alternatives to Immigration Detention (hosted by **Trinidad and Tobago** in September 2016, with the participation of the **Cayman Islands**); the UNHCR Refugee Situation Preparedness and Contingency Planning Workshop for the Southern Caribbean (hosted by **Trinidad and Tobago** in December 2016 with the participation of **Aruba, Bonaire, Curacao, Guyana** and **Suriname**); and the UNHCR Dutch Language Regional Training on Refugee Protection (hosted by Suriname in October 2017 with the participation of **Aruba, Curacao** and **Sint Maarten**).

¹³⁵ Anguilla, Antigua and Barbuda, Aruba, The Bahamas, Belize, the Cayman Islands, Cuba, Grenada, Guyana, Haiti, Montserrat, Saint Kitts and Nevis, Saint Lucia, Sint Maarten, Suriname, Trinidad and Tobago, Turks and Caicos, the United States of America.

Good practices in Mass Migration Scenarios

The Government of **Antigua and Barbuda** has noted its good practices and lessons learned following the experience of evacuating and accommodating 1,500 internally displaced persons due to multiple hurricanes in 2017. The multi-sectoral dimension of the response to ensure safe reception arrangements, registration databases, and evacuees profiling and processing systems was underlined. The multifaceted response involved analysis and allocation of human and material resources, including food and accommodation, as well as the identification of persons with particular special needs, and the provision of psychosocial support. Lessons learned included the need to uphold a human rights perspective to prevent, plan and strategize in advance. Based on these experiences, the Government has underscored the critical importance of the collaborative dimension (regional cooperation, as well as coordination between relevant Ministries, Departments and organizations) to cope with natural disasters and climate-induced displacement.

5.2.3. Progressively establish asylum systems and refugee status determination procedures

The BPA encourages Caribbean countries to progressively establish asylum systems through the formulation of public policies and internal regulations and the implementation of procedures for the identification of and the differentiated assistance to various groups in situations of vulnerability, guaranteeing access to RSD procedures and alternatives to detention for asylum seekers, as well as accompanied and unaccompanied children. It sets forth a goal to foster coordination in the Caribbean in order to promote the implementation of refugee status determination procedures.

Since 2014, an increasing number of Caribbean States and overseas territories - including **Antigua and Barbuda, The Bahamas, Belize, Curacao, Jamaica, Trinidad and Tobago, Turks and Caicos Islands and Suriname** - have requested support from UNHCR for the drafting of legislation, regulations and policies on refugee protection. In response to States' requests, UNHCR developed the "Technical Guide for the Development of Refugee Legislation in the Caribbean" (Technical Guide). States have used the Technical Guide to develop national legislation and implement the provisions of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. The Technical Guide sets out RSD procedures and specifies refugee rights and protection safeguards in line with international standards. In contexts where relevant legislation is already in place, the Technical Guide has also served as a tool for identifying possible shortcomings or improvements to be considered. At the "First Meeting of the CMC" in 2016, Caribbean countries discussed the use of the Technical Guide and also requested that UNHCR develop a "Checklist for a Comprehensive Asylum System", which was provided to States at the "Second Meeting of the CMC" in 2017.

"QAI from the Start"

Following the adoption of a Refugee Policy in 2014, which envisions the creation of a comprehensive asylum system, the Government of **Trinidad and Tobago** committed to granting recognized refugees a permit of stay, work authorization and access to public assistance. Refugee legislation is at an advanced drafting stage. A Refugee Unit was established in 2016 within the Ministry of National Security's Immigration Division. In April 2017, the Government began participating in the Quality Assurance Initiative as a "QAI from the Start," with the goal of building a solid national asylum system based on transparency, efficiency and due process principles, including the phased transfer of responsibility for registration and RSD from UNHCR to the Government. **Belize** has also expressed interest in participating in the QAI to strengthen its asylum system.

CRRF and CRPSF

In June 2015, the Government of **Belize** reactivated the Refugee Eligibility Committee and in November 2015 it reconvened for the first time in eighteen years. The Department of Refugees was re-established in May 2016, and the Government recently renamed the Ministry of Immigration as the “Ministry of Immigration and Refugees,” to place more emphasis on its work related to refugee protection issues. Central America was selected as one of two pilot regions to participate in the CRRF and CRPSF, a new initiative developed as a result of the New York Declaration on Refugees and Migrants.¹³⁶ Belize participated in the San Pedro Sula Conference in October 2017 to address issues of mass displacement with the overarching goal of strengthening regional solutions.

Since the adoption of the BPA, **The Bahamas** has made strides in developing a regulatory framework for asylum procedures, particularly through the establishment of the inter-agency Migration Working Group in May 2015, and the development of Asylum Regulations for the Refugee Unit, which are soon to be adopted by Cabinet. In 2015, **Antigua and Barbuda** established an ad-hoc Eligibility Committee to determine the status of a group of Syrian asylum seekers. While the term of office of the Committee expired in 2016 and has not been convened to hold any further hearings, the Government notes that the relevant procedures have been established and remain open to further implementation and development. The **Turks and Caicos Islands** has highlighted the establishment of an Immigration Ordinance in 2015,¹³⁷ which addresses matters of international protection of refugees and asylum seekers.

The Migration Working Group

The Bahamas established an inter-agency Migration Working Group in May 2015, chaired by the Attorney General’s Office with representation of various Government Ministries, UNHCR and NGOs. In the absence of any domestic refugee legislation, the primary mandate of the working group is to formulate and execute a comprehensive approach to addressing asylum and refugee issues in The Bahamas. The Migration Working Group has developed Asylum Regulations for the Refugee Unit. It is promoting the full implementation of the Asylum Regulations and will ultimately work toward the passing of supporting legislation.

At the end of 2017, The Bahamas announced that it started issuing ICAO machine-readable 1951 Convention Travel Documents for refugees, making The Bahamas the first Caribbean country to do so.

Several countries have established good practices related to alternatives to immigration detention (ATDs), including **Trinidad and Tobago** (through the use of Orders of Supervision) and the **Cayman Islands**.¹³⁸

¹³⁶ See Section IV.

¹³⁷ Immigration (Amendment) Ordinance 2015, No. 16 of 2015, available at: <http://online.fliphtml5.com/fizd/tqyt/>

¹³⁸ The Cayman Islands is generally not the intended destination of interdicted migrants, and the majority of persons arriving are not seeking international protection.

Reception and Alternatives to Immigration Detention

The Cayman Islands has continued to develop good practices regarding reception facilities for migrants and safeguards for individuals with specific protection needs. Reception procedures are in place to identify persons in need of international protection, minors, pregnant women and persons with health issues. These screening procedures take into account if detention would compromise a person's physical safety or well-being. Identified persons with specific protection needs are removed from the Immigration Detention Centre and placed elsewhere in the community in the care of a church group or NGO, and are accommodated in guest houses, hotels, community civic centers or private homes. The Cayman Islands Detention Centre is a low security closed facility that is only used for interdicted undocumented migrants, some of whom seek asylum while detained. The center provides accommodations in dorm rooms, recreation programs, and various health and support services.

5.2.4. Formulate programs that promote comprehensive durable solutions, with a focus on local integration

The BPA encourages Caribbean countries to formulate programs that promote comprehensive durable solutions, including measures to foster integration in local communities and the inclusion of refugees in national plans and policies, that promote the enhancement of international cooperation and regional solidarity to facilitate the resettlement of refugees, including to South American countries, and promote the voluntary return of migrants, thus relieving the disproportionate burden on some island countries.

I want to thank the country for opening the door to us a long time ago, but as well I understand that it's a long process and in the meantime we have to survive, we have to do whatever to survive, to support family.

Jean Noel, *refugee in Trinidad and Tobago*

Since the adoption of the BPA, there have been several developments at a national level regarding local integration prospects, particularly with many countries providing work permits to asylum-seekers and refugees. In **Aruba**, registered asylum-seekers and refugees are permitted to work. The Government of **Suriname** is granting work permits to refugees and is finalizing the process for issuing temporary residence permits for refugees and asylum seekers. In **Trinidad and Tobago**, efforts are underway to issue Minister's Permits, which allow for work authorization and legal residence for recognized refugees. Following discussions on durable solutions at the First Meeting of the CMC in December 2016, the Government of the **Cayman Islands** has produced written policies on budgets that are allocated for an initial period of support services to promote the local integration of recognized refugees, which include assistance for housing, food allowances, and provision of healthcare, as well as guidance for the treatment of persons with particular needs and vulnerabilities.

Progress in Local Integration

In the context of notable increases in the numbers of refugees and asylum-seekers in **Suriname**, the Government is making strides in promoting local integration. The Government of Suriname is adopting a general ministerial declaration, granting two-year residence permits, or “stay permits” to refugees and asylum-seekers, which introduces exemptions in work permit requirements, as well as safeguards for *non-refoulement*. Authorities are also working toward launching an online application process for these permits, and are in the process of establishing an inter-departmental working group to address matters related to refugee protection.

Regarding resettlement, Caribbean countries have supported a new initiative, the **Regional Refugee Transfer Mechanism (RRTM)**, to facilitate durable solutions for refugees with specific needs in the region. Refugees in the Caribbean have also benefitted from solidarity resettlement in Latin American countries.

Regional Refugee Transfer Mechanism (RRTM)

The RRTM is a regional mechanism established in **Trinidad and Tobago** that offers a systematic, coordinated and informed response to address the situation of refugees who are dispersed in remote Caribbean islands and who are in need of third country resettlement. In particular, the RRTM provides for the transfer of refugees from small islands to larger Caribbean countries to facilitating interviewing and resettlement processes in more central and accessible locations, avoiding dispersion through a more effective and compacted management of cases, as well as generating a better protection space by preventing detention. The RRTM began as a pilot project with 4 cases processed during the first year, followed by an evaluation and adjustment. To date, 17 refugees have been successfully resettled from countries including Barbados, Saint Lucia and Antigua and Barbuda through the RRTM in Trinidad and Tobago.

5.3. Progress made with respect to the eradication of statelessness in the Caribbean¹³⁹

Belize acceded to the 1961 *Convention on the Reduction of Statelessness* in 2015. In March 2017, the Parliament of **Haiti** voted in favor of the country’s accession to the 1954 *Convention on the Status of Stateless Persons* and the 1961 *Convention on the Reduction of Statelessness*. **The Bahamas** demonstrated its efforts and political will to address treatment that discriminated based on gender in the nationality provisions of the Bahamian Constitution, with the intention of making legislative changes to effectively ensure that all “natural born” Bahamian men and women have the same ability to confer citizenship to their children, irrespective of the place of birth or marital status¹⁴⁰. **Cuba** adapted its nationality laws to international human rights standards on prevention of statelessness.¹⁴¹ Lastly, as concerns the restitution of nationality in the **Dominican Republic**, approximately 20,000 persons have received documents proving nationality in late 2017.

¹³⁹ See Section VI “Eradication of statelessness”.

¹⁴⁰ The Bahamas held a Constitutional referendum in June 2016 in an effort to address these nationality issues, however, the referendum was defeated by a large majority.

¹⁴¹ By eliminating the residency requirement for the acquisition of nationality by right of blood and establishing procedures to apply for nationality in the Consulates abroad and within the territory.

5.4. Challenges identified in the CMC

Despite significant developments on a national and regional level, States have identified continuing challenges in the Caribbean, related to implementation of goals set forth in the “Regional Solidarity with the Caribbean” program.

It has been reiterated that the Caribbean, with its vast and permeable maritime borders, is a region particularly vulnerable to significant migration flows. Caribbean countries face a number of challenges in dealing with the ever-increasing levels of mixed migration movements, due to climate change, natural disasters and civil unrest, which are exacerbated by limited financial, human and material resources. States have underscored that enhanced regional cooperation is essential to address risks of large-scale forced displacement, and stronger regional responsibility-sharing mechanisms are critical for effectively managing mixed migratory movements.



From his hammock, Edgar - a young asylum seeker from Guatemala - gazes out of the window of his family's thatched-roof hut in Armenia, Belize, at the devastation left behind by Hurricane Earl. © UNHCR/Brooke Del Greco

Though there have been significant steps forward in the region, many Caribbean countries have nascent or non-existent government asylum procedures, and there are insufficient practical and legal measures in place to safeguard the effective application of the principle of *non-refoulement*. States face challenges in reaching a balanced approach to mixed migration, particularly reconciling the efforts to combat irregular migration, smuggling and trafficking in persons with full respect to human rights and refugee protection principles. In this context, the importance of identifying refugees and other persons with specific needs and establishing protection-sensitive entry mechanisms as well as differentiated procedures that ensure safeguards for refugees and asylum-seekers was emphasized.

Similarly, the absence of established reception mechanisms continues to be a challenge, and there remains a need to implement alternatives to immigration detention. Despite sporadic progress, such as a few countries adopting safeguards in the identification and treatment of persons with specific protection needs, the management of mixed migration continues to be an area that requires more dedication. Steps taken are characterized by fragmentation, where the varying levels in advancing policies show the need to develop a more comprehensive strategy and human rights-based approach.

Caribbean countries face a number of challenges related to the prevention, protection and resolution of cases of statelessness. Common problems relate to poor civil registration and documentation

systems, strict time limits and high costs for birth registration and personal documentation, poor infrastructure and lack of capacity to reach remote areas, as well as lack of awareness of parents on the importance of birth registration of their children.

Finally, xenophobia and lack of public awareness about refugee issues has been also identified as a challenge, signaling the continuing need for sensitization and awareness-raising campaigns in the region.

5.5. Priorities

In consideration of the many achievements, good practices and challenges in the context of the implementation of the BPA, Caribbean countries identified several priorities that should be tackled in the region, taking into account the specificities of each country.

The following key issues were raised as areas of concern that require further coordination and development: regional cooperation in establishing asylum systems; coordination for information-sharing in border management and large-scale influxes; capacity building on protection-sensitive entry mechanisms; and enhanced spaces for regional dialogue and analysis.

5.5.1. *With respect to the CMC*

Caribbean countries have agreed that the creation of the CMC in 2016 and States' active engagement in this new regional forum represent an important achievement in the framework of the BPA. States have identified the following priorities for the development of the CMC:

- Establish a clear structure of the CMC, including the election of a rotating chair. The country hosting the annual meeting could be the chair, supported by the preceding host country;
- Further formalize the CMC through a memorandum of understanding among countries, featuring membership and clearly identified mandate and priorities;
- Create an online platform to serve as a forum for sharing information, resources and good practices;
- Formalize the coordination role of the CARICOM Secretariat and structure, while recognizing that not all countries participating in the CMC are CARICOM members;
- Through the support of CARICOM, enhance the CMC's role in connecting with other existing regional and specialized platforms, such as those addressing human trafficking;
- Within the framework of the CMC, organize regional workshops and trainings, with the technical support of the international community (including UNHCR, IOM, CARICOM and other specialized agencies).

5.5.2. With respect to the strengthening of regional cooperation in the management of mixed migration movements through rights-based approaches

Caribbean countries have raised the following priorities for strengthening regional coordination in the management of mixed migration movements:

- Through regional dialogue and cooperation, take concrete and coordinated steps in enhancing protection-sensitive entry mechanisms, with differentiated case processing and procedures to manage mixed migration movements through a human rights-based approach;
- Strengthen existing platforms to foster information-sharing, sharing of intelligence and best practices, as well as collaboration and networking at the regional level to address challenges related to refugee protection and migration in the Caribbean;
- Collaborate with the international community (i.e. UNHCR, IOM, CARICOM) in providing technical support, capacity building and human rights training for government officers at borders;
- Design and establish national multi-stakeholders task-forces in the management of mixed migration movements, especially in large-scale displacement - including contingency planning for natural disasters and mass-migration scenarios in order to plan, prevent and strategize multifaceted responses;
- Develop a regional task-force to coordinate responsibility-sharing actions in managing mixed migration movements, with the technical expertise of relevant international partners;
- Create a regional early response protocol for the identification of persons with specific protection needs;
- Create a regional platform within the CMC to harmonize and develop common human-rights-based SOPs for border management, asylum, refugee status determination and identification of persons with specific protection needs, paying particular attention to age, gender and diversity;
- Promote study visits, exchanges or twinning projects among countries (including with Canada and the U.S) to learn from other contexts;
- Promote awareness-raising and sensitization across the region through trainings (on refugee protection, human rights and humanitarian standards) for front-line officers, Government officials, Parliamentarians, journalists and other target groups.

5.5.3. With respect to the progressively establishment of asylum systems and refugee status determination procedures

Caribbean countries have identified the following priorities related to the progressive establishment of asylum systems and access to the implementation of refugee status determination procedures:

- For non-State parties, accede to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol;
- Develop and enact relevant legislation, policies and SOPs on refugee protection, applying the UNHCR Technical Guide for the Development of Refugee Legislation in the Caribbean and the Checklist for a Comprehensive Asylum System” as practical tools;
- Develop harmonized SOPs for the identification of vulnerabilities and protection needs, combined with effective referral mechanisms, RSD procedures and protection against *refoulement*;
- Implement alternatives to immigration detention and promote reception conditions in line with international standards.

5.5.4. With respect to the formulation of programs that promote comprehensive durable solutions, with a focus on local integration

Caribbean countries have identified the following priorities regarding durable solutions, particularly related to local integration:

- Work toward a comprehensive approach to local integration that encompasses the legal, economic and cultural dimensions. Policies should represent a wholistic rights-based perspective and engage all relevant stakeholders;
- Facilitate local integration, ensuring that refugees receive non-discriminatory documentation that allow them to access a series of economic, social and cultural rights, including access to work, education, housing, healthcare and social services;
- Beyond ensuring that refugees have the right to work and access to language classes, vocational training should also be offered in order to overcome barriers to local integration;
- Facilitate residency permits that lead to permanent residency and, ideally, to the naturalization of refugees.

5.5.5. With respect to the eradication of statelessness

- For non-State parties, accede to the 1954 and 1961 Conventions.
- Map, analyze and address cases of statelessness, and coordinate a response aimed at preventing, protecting and reducing cases of statelessness, with particular focus on ensuring universal birth registration, including late registration, and community outreach information sessions in order to bring competent authorities closer to people’s needs and design creative initiatives to expand services in most remote areas.

Section VI

ERADICATION OF STATELESSNESS

MINISTÈRE DE LA JUSTICE
RÉPUBLIQUE D'HAÏTI
ACTE DE NAISSANCE
N° 060969
M.J.F.1
Décl. PÈRE
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ÉTAT CIVIL
LIBERTÉ ÉGALITÉ FRATERNITÉ
RÉPUBLIQUE D'HAÏTI

de -
L'an deux mille 2011 le 10 Mai à Carrefour
De l'indépendance et le 10 mai 1810 à Carrefour
Par-devant Nous Micarmelle Bellet
Officier de l'Etat Civil de la Commune de Carrefour
Soussigné: Djeufferson
A comparu le sieur Jimmy Olivier,
demeurant et domicilié à Carrefour de la
commune de Carrefour
Lequel nous a déclaré la naissance de un fils naturel
à l'Hôpital de Carrefour

6. Eradication of Statelessness

6.1. Reference to the BPA

The program “Eradicating Statelessness” of the BPA proposes the goal of ending statelessness in Latin America and the Caribbean region by 2024. This could be achieved by promoting national laws and practices that do not generate potential cases of statelessness (prevention), protecting stateless persons that are in the territory during the process of resolution of their cases (protection); as well as resolving existing cases of statelessness (reduction and resolution).

6.2. National developments

Several Latin American and Caribbean States already have Nationality Laws that comply with international human rights standards on the prevention of statelessness, and some of them already have adequate policies for the protection of stateless persons. With some complementary efforts, the Americas could reach the goal of becoming the first region free of statelessness in the world by 2024, representing a worldwide model and leading the global fight to eradicate statelessness.

States Party to the Stateless Conventions

As to June 30, 2018

- Parties to the 1954 Convention only
- Parties to the 1961 Convention only
- Parties to the 1954 and the 1961 Conventions
- ◆ States which have acceded to one or both Conventions since the launch of UNHCR's Accession Campaign in October 2010



As to June 30, 2018. Sources: UNHCR.
The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

6.2.1. Prevention

• Accession to the 1961 Convention:

Since the adoption of the BPA, five States have approved the accession to the 1961 Convention to Reduce Cases of Statelessness (Belize, Chile and Peru), or have taken steps toward it (Haiti), or promulgated it (Brazil). All countries acceded or approved the accession without reservations.

• Alignment of nationality laws and practices with international standards:

Several countries have adopted guidelines and modified, or planned to modify, their domestic regulations in order to interpret the exceptions provided for the acquisition of nationality by birth in the territory in a restrictive way (*ius soli*), as well as to modify the requirements for the acquisition of nationality by right of blood (*ius sanguinis*). Some countries have adapted their nationality laws to international human rights standards on prevention of statelessness by eliminating the residency requirement for the acquisition of nationality by right of blood and establishing procedures to apply for nationality in Consulates abroad and within the territory (**Cuba**),¹⁴² or by eliminating this requirement in order to ensure the acquisition of nationality of those children who would otherwise be stateless (**Paraguay**).¹⁴³ This was also achieved through new decrees and general migration laws that abolished the requirement to renounce the nationality of origin when applying for naturalization (**Brazil**).¹⁴⁴ In addition safeguards against the loss of nationality - when the person risks becoming stateless - were provided (**El Salvador**).¹⁴⁵ In addition, **Peru** approved a constitutional reform project, aimed at eliminate the requirement that registration be completed during the minor age in order to be considered as national by birth in the cases of children of nationals that are born abroad (*ius sanguinis*).¹⁴⁶

142 Decree-Law 352 (2017), "On the acquisition of Cuban citizenship by birth of those born abroad of a Cuban father or mother".

143 Draft Law on Protection and Facilities for the Naturalization of Stateless Persons, Exp. N ° S-PS 17-7570 (2017).

144 Decree No. 8.757 of May 10, 2016, "Altera or Decree No. 86.715, of December 10, 1981, for Disposal of a Foreign Legal Situation in the Federative Republic of Brazil".

145 Executive Decree "Draft Special Law on Migration and Foreigners", June 9, 2016. <https://www.asamblea.gob.sv/node/6630>

146 Bill 00402/2016-CR (2016), of "Constitutional Reform on Nationality by Birth".

The restricted interpretation of the notion of ‘foreigner in transit’

In **Chile**, the interpretation of the notion of ‘foreigner in transit’ was restricted to members of carriers’ crew and to the children of tourists. As a result, children of foreign parents with irregular migratory status - with the intention of staying in the country - that are born within the territory can acquire the Chilean nationality at birth¹⁴⁷. The new administrative criterion, based on the jurisprudence of the Supreme Court, may become law in the future¹⁴⁸. In addition, a draft bill on Guarantees for Children includes a reference to the right to acquire a nationality, as part of the right to identity.¹⁴⁹

- **Prevention of statelessness through universal birth registration:**

Several countries implemented projects that facilitate late birth registration through the elimination of practical barriers, strategies of community outreach, bi-national cooperation, as well as inter-institutional mobile brigades of government authorities, civil society and UNHCR.

Scope of the concept of ‘domicile’ of foreign parents

In **Colombia**, the Constitutional Court referred to the scope of the concept of ‘domicile’ of foreign parents, which is a requirement for children that are born within the territory to acquire the Colombian nationality.¹⁵⁰ The Court indicated that the notion of ‘domicile’ provided in the Civil Code should be applied. In order to demonstrate compliance with the ‘domicile’ (time and mode) requirement, the foreign parent who applies for their children born within the territory to acquire the Colombian nationality, can demonstrate their intention to remain in the country through several means of evidence. On the other hand, the National Civil Registry enacted Circular 059, with which it extended the migratory categories authorized to demonstrate the requirement of ‘domicile’.¹⁵¹ At the end of 2017, the National Civil Registry modified Circular 059 through Circular 168,¹⁵² establishing a mechanism to apply the safeguard to prevent statelessness as provided in Article 20.2 of the American Convention on Human Rights.¹⁵³

6.2.2. Protection

- **Convention on the Status of Stateless Persons of 1954:**

Since the adoption of the BPA, three countries have either become States parties (**Chile** and **El Salvador**) or have taken concrete steps towards the accession (**Haiti**) to the 1954 Convention relating to the Status of Stateless Persons. All countries acceded or approved the accession without reservations.

147 Civil Registry and Identification Service, National Directorate, Exempt Resolution No. 102, of March 20, 2015, on registration of birth with annotation of the child of a non-resident foreigner and renders resolutions No. 3,207 and No. 3,509 exempt. , of 2014; Exempt Resolution No. 3.207, Instructs on annotation indicating, of September 1, 2014; Exempt Resolution No. 3.509, Complements Exempt Resolution No. 3,207, of September 9, 2014.

148 Bulletin N ° 9831-07, January 2015, draft law that “Establishes Interpretative Law of Article 10 of the Political Constitution of the Republic, in Matters of Nationality of Children of Foreigners Born in Chile”.

149 Bulletin 10315-18 (2015), “Draft Law. System of guarantees of children’s rights”.

150 Constitutional court. Judgment T-075/15 of February 20, 2015. File T-4,551,344. Available at: <http://www.corteconstitucional.gov.co/relatoria/2015/t-075-15.htm>

151 National Registry of Civil Status. Circular No. 59 of March 26, 2015. Guidelines to Establish Registration in the Birth Registry of Children of Foreigners Born in Colombia for the Purpose of Demonstrating Nationality.

152 Civil Registry Colombia, “Circular Modification No. 059 of March 26, 2015. Guidelines in order to establish the registration in the Civil Registry of birth of the children of Foreigners born in Colombia for the purpose of showing nationality. ”, Circular 168 (2017).

153 Art. 20.2 of the ACHR indicates that “Every person has the right to the nationality of the state in whose territory he was born if he does not have the right to any other nationality”.

- **Statelessness Determination Procedures, new regulations and draft bills:**

Some countries adopted regulations that include statelessness determination procedures (**Brazil**,¹⁵⁴ **Costa Rica**,¹⁵⁵ **Ecuador**¹⁵⁶), or presented draft bills that contain it (**Argentina**,¹⁵⁷ **Paraguay**,¹⁵⁸ **Uruguay**¹⁵⁹) and others established the right to apply for the recognition of the condition of stateless person in their general legislation (**El Salvador**).¹⁶⁰ Finally, one country requested UNHCR technical assistance for the development of a statelessness determination procedure (**Guatemala**).

The above-mentioned regulations and draft bills include good practices such as: 1) The allocation of competence to the National Refugee Commissions (CONARE) to determine stateless status; 2) The establishment of special procedures for unaccompanied or separated children; 3) The absence of a peremptory deadline to submit the application; 4) The possibility to initiate an *ex officio* procedure, and to submit the request both verbally or in writing; 5) The possibility of submitting the application irrespective of the migratory status of the applicant and in different places of the country; 6) The gratuity of the procedure; 7) Free legal assistance to applicants without economic means; 8) Identification Mechanisms and coordination with refugee status determination procedures; 9) Coordination measures with other special procedures, such as the late birth registration; 10) The prohibition of discrimination based on sexual orientation or gender identity; 11) The protection of family unity, even with people of the same sex; 12) The interpretation and implementation of protection norms from a gender, age and diversity perspective.

- **Protection Legal Frameworks:**

Several countries developed special protection draft bills (**Argentina**,¹⁶¹ **Panama**, **Paraguay**,¹⁶² and **Uruguay**¹⁶³), adopted special regulatory protection frameworks (**Costa Rica**)¹⁶⁴ or included protection provisions within their migratory legislations (**Brazil**,¹⁶⁵ **Chile**,¹⁶⁶ **Ecuador**,¹⁶⁷ **El Salvador**,¹⁶⁸ and **Peru**¹⁶⁹), such as: (i) legal residence and identity documents; (ii) access to effective enjoyment of fundamental rights and guarantees, such as freedom of movement; (iii) issuance of laissez-passers for stateless migrants; (iv) humanitarian visas or temporary residence permits; (v) family reunification; (vi) facilities for naturalization; and (vii) no sanctions for irregular entry.

154 Decree 9199, November 20, 2017, available at: <http://pesquisa.in.gov.br/imprensa/jsp/visualiza/index.jsp?data=21/11/2017&jornal=515&pagina=7&totalArquivos=96>

155 Executive Decree 39620, May 13, 2016. Regulation for the Declaration of the Status of a Stateless Person. available at: http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=81511&nValor3=103965&strTipM=TC

156 Organic Law of Human Mobility, supra note 42.

157 Project S-0063/17 (2017), "General Law for the Recognition of the Status of the Stateless," available at: <http://www.senado.gov.ar/parlamentario/comisiones/verExp/6317/S/PL>

158 Draft Law on Protection and facilities for the naturalization of stateless persons. File S-177570. May 1996.

159 Folder No 2518 of 2017, divided No 821 (2017), "Bill" Recognition and Protection of Stateless", available at: <https://parlamento.gub.uy/documentosyleyes/ficha-asunto/137033>

160 Legislators study the proposal of the Special Law on Migration and Aliens to pass a modern legislation to the country, January 29, 2018, available at: <https://asamblea.gob.sv/node/6726>

161 "General Law of Recognition of the Status of the Stateless," supra note 129.

162 Draft Law on Protection and facilities for the naturalization of stateless persons, supra note 130.

163 Folder No 2518 2017 Spread No 821 (2017), "Bill" Recognition and protection to stateless " available at: <https://parlamento.gub.uy/documentosyleyes/ficha-asunto/137033>

164 Executive Decree 39620, May 13, 2016, supra note 127.

165 Lei de Migração, Lei 13 445, of 24 May 2017, available at: <http://www.lexmi.gov.br/urn/urn:lex:br:federal:lei:2017-05-24:13445>

166 Michelle Bachelet Jeria, New Migration Law", Message 124-365 (2017). The project indicates that it will correspond to the Under-secretariat of the Interior, or to whom it delegates, the function of determining the cases of persons in a situation of statelessness, when appropriate. Similarly, it is established that the Ministry of the Interior and Public Security will supervise and instruct the border authority on how to apply immigration legislation and the protection of stateless persons.

167 Organic Law of Human Mobility, supra note 42.

168 Legislators study the proposal of the Special Law on Migration and Aliens to pass a modern legislation to the country, January 29, 2018, <https://asamblea.gob.sv/node/6726>

169 Legislative Decree No. 1350, *Legislative Decree on Migration*, March 2017, ; Supreme Decree No. 007-2017-IN (2017) "Supreme Decree approving the Regulation of Legislative Decree No. 1350, *Legislative Decree Migration and approve new immigration status*".

In addition, UNHCR, launched the “Draft Articles on the Protection of Stateless Persons and Facilities for their Naturalization”,¹⁷⁰ aimed at providing technical guidance to States that are interested in developing statelessness determination procedures as well as regulatory protection frameworks.

6.2.3. Reduction and Resolution

- **Facilitated process for naturalization of stateless persons:**

Several countries adopted laws (**Brazil**,¹⁷¹ **Chile**¹⁷² and **Ecuador**¹⁷³), modified their existing regulations (**Bolivia**¹⁷⁴ and **Costa Rica**¹⁷⁵), or presented draft bills (**Argentina**¹⁷⁶, **Paraguay**¹⁷⁷ and **Uruguay**¹⁷⁸) that include facilities for the naturalization of stateless persons and stateless refugees by eliminating or reducing most of the established legal requirements, for example, reducing the residence term.

- **Confirmation of nationality and issuance of nationality documents:**

Mexico¹⁷⁹ modified its legislation in order to authorize its Heads of Consular Services to make late birth registrations and to issue birth certificates, developing a series of guidelines.¹⁸⁰

“I wished I could go to school but I couldn’t because I had no birth certificate. I couldn’t access health services or benefit from social services. Now thanks to the Chiriticos project, I am registered and I could register my children who are now enrolled in school and enjoy health and social protection.”

Reinaldo, Ngäbe-Buglé, father of two.

The ‘Chiriticos’ Project

The Chiriticos Project is a joint initiative of the Civil Registry Office of the **Costa Rican** Supreme Electoral Tribunal, the Electoral Tribunal of **Panama** and UNHCR. This project represents a good practice on determination of nationality and prevention of statelessness through late-birth registration of Ngäbe and Buglé indigenous peoples. Ngäbe-Buglé persons habitually and seasonally move around border areas between Costa Rica and Panama to work on banana and coffee plantations in the Costa Rican territory. These persons were at risk of statelessness due to the lack of registration at birth. The Chiriticos’ project assisted the Ngäbe and Buglés through the facilitation of civil late-birth registration procedures and the issuance of nationality documentation. Thanks to this initiative, the nationality of approximately 1500 people was determined in 2017.

170 UNHCR, *Draft Articles on Protection and Facilities for the Naturalization of Stateless Persons*, February 2017.

171 Decree 9199, November 20, 2017, available at: <http://pesquisa.in.gov.br/imprensa/jsp/visualiza/index.jsp?data=21/11/2017&jornal=515&pagina=7&totalArquivos=96>

172 Law 20,888, Modifies the Requirements for Obtaining Nationalization, January 2016, promulgated on January 4, 2016, published on January 8, 2016, available at: <https://www.leychile.cl/Navegar?idNorma=1086208>

173 Organic Law of Human Mobility, supra note 42.

174 Ministry of Government, Ministerial Resolution No. 050/2016, March 9, 2016.

175 Reglamento Relativo a los Trámites, Requisitos y Criterios de Resolución en Materia de Naturalizaciones, Decreto, Decreto n.º 12-2012 Publicado en el Alcance n.º 124 a La Gaceta n.º 171 de 05 de setiembre de 2012, available at: <http://www.tse.go.cr/pdf/normativa/reglamentorelativotramitesnaturalizacion.pdf>

176 Project S-0063/17 (2017), “General Law for the Recognition of the Status of the Stateless,” supra note 129.

177 Project for Protection Law and facilities for the naturalization of stateless persons supra note 130.

178 Folder No 2518 of 2017, divided No 821 (2017), “Bill” Recognition and Protection of Stateless”, available at: <https://parlamento.gub.uy/documentosyleyes/ficha-asunto/137033>

179 Executive Decree, DOF: 06/01/2016, which modifies the “Mexican Foreign Service Law”.

180 Agreement that publishes the guidelines for the birth registration of people born in the national territory, DOF: 02/13/2017.

- **Restitution of nationality:**

Although there are no official numbers, by the end of 2017, approximately 20,000 persons had received documents that prove nationality in the **Dominican Republic**, this in accordance with the provisions of the Law 169-14¹⁸¹ and its regulations.¹⁸²

“My name is Juliana, I am 14 years old and I was consider a person in transit in Chile. Now thanks to Chile Reconoce project, I am Chilean.”

Juliana, daughter of foreign parents who was born in Chile.

Chile Reconoce Project

Through this project, **Chile** established a mechanism to review the birth registration of children born in the country from foreign parents with irregular migratory status at the moment of birth but with the intention of remaining in the Country. These children were registered at birth as “child of transient foreigner”. According to the new regulatory standards that are in force these persons now have the right to acquire the Chilean nationality, therefore their nationality was restored. In May 2017, the results of the “Chilereconoce” project were presented¹⁸³ at an event that included the participation of the Presidency who gave a message of support to the #IBelong campaign.



The President of Chile, Michelle Bachelet, headed the launch of the programme “Chile Reconoce”, to grant Chilean nationality to the children of in “transit foreigners”. © UNHCR/Sebastian Rodriguez

¹⁸¹ Law that establishes a special regime for persons born in the national territory irregularly registered in the Dominican Civil Registry and on naturalization, Law 169-14, May 21, 2014.

¹⁸² Regulation of application of Law N° 169-14, Decree 250-14, July 23, 2014.

¹⁸³ Chile Reconoce Project, available at: www.chilereconoce.cl

6.3. Regional developments

6.3.1. Organization of American States

The OAS General Assembly supported the efforts aimed at eradicating statelessness in America, through the adoption of the following three resolutions:

- In June 2014, it invited member States to take advantage of the *Cartagena + 30* commemorative process to identify the necessary challenges and actions to address statelessness, and to consider including a chapter on this topic in the resulting regional strategic framework (the BPA).¹⁸⁴
 - In June 2016, the OAS welcomed the BPA, the *#IBelong* campaign¹⁸⁵ and the Global Plan of Action. In particular, it promoted the accession to the Statelessness Conventions, the establishment of statelessness determination procedures, the elimination of gender-based discrimination in nationality laws, civil registry, adequate resolution of existing cases of statelessness, while stressing the importance of facilitating processes for the naturalization of stateless migrants.¹⁸⁶
 - Finally, in June 2017, it reaffirmed the commitment of States to the eradication of statelessness, and invited its member States to continue advancing in the implementation of the actions proposed in the “Global Action Plan” and the BPA.¹⁸⁷
- **Inter-American Commission on Human Rights:**

The Inter-American Commission on Human Rights (IACHR) addressed the issue of statelessness in specific reports and during in loco visits.¹⁸⁸

In November 2016, the IACHR published a report on the legal standards of the Inter-American Human Rights System (IAHRS) on human mobility, including standards related to the right to nationality and the prevention of statelessness.¹⁸⁹

- **Inter-American Court of Human Rights:**

In 2014, the Inter-American Court participated in the sub-regional consultations of the *Cartagena +30* process, adopted an advisory opinion¹⁹⁰ and issued a ruling in a contentious case decision¹⁹¹ where it provided important criteria for the prevention and solution of statelessness, as well as the protection of stateless persons.

184 OAS, General Assembly, “Prevention and reduction of statelessness and protection of stateless persons in the Americas”, Resolution AG / RES. 2826 (XLIV-O / 14) (2014), available at: <http://www.acnur.org/fileadmin/Documentos/BDL/2016/10526.pdf?view=1>

185 UNHCR, “#IBelong”, November 4, 2014, available at: <http://www.unhcr.org/ibelong/es/>

186 OAS, General Assembly, “Promotion and protection of human rights” Resolution AG / RES. 2887 (XLVI-O / 16) (2016), available at: http://www.oas.org/es/sla/ddi/docs/AG-RES_2887_XLVI-O-16.pdf

187 OAS, General Assembly, “Promotion and protection of human rights” Resolution AG / RES. 2908 (XLVII-O / 17) (2017), available at: <http://www.acnur.org/fileadmin/scripts/doc.php?file=fileadmin/Documentos/BDL/2017/11322>

188 OAS, IACHR, Report on the situation of human rights in the Dominican Republic. Doc. 45/15 of December 31, 2015, for. 294., available at: <http://www.oas.org/es/cidh/informes/pdfs/RepublicaDominicana-2015.pdf>; OAS, IACHR, Denationalization and statelessness in the Dominican Republic. August 2012, available at: <http://www.oas.org/es/cidh/multimedia/2016/RepublicaDominicana/republica-dominicana.html>

189 OAS, IACHR “Human Rights of Migrants, Refugees, Stateless Persons, Victims of Trafficking in Persons and Internally Displaced Persons: Norms and Standards of the Inter-American Human Rights System”, December 2015, available at: <http://www.oas.org/en/iachr/reports/pdfs/humanmobility.pdf>

190 IA Court HR, “Rights and guarantees of girls and boys in the context of migration and / or in need of international protection”. Advisory Opinion OC-21/14, August 19, 2014. Series A No. 21.

191 IA Court HR. “Case of expelled Dominicans and Haitians v. Dominican Republic. Preliminary Objections, Merits, Reparations and Costs”, August 28, 2014. Series C No. 282.

- **Inter-American Juridical Committee:**

In the follow-up of the OAS General Assembly resolution AG/RES. 2826 (XLIV-O / 14), the Inter-American Juridical Committee (IAJC) prepared the “Guide on the Protection of Stateless Persons”, that was published in 2015.¹⁹² The guide encourages States to accede to Statelessness Conventions, to adopt regulations in line with UNHCR ‘Model Law’ (today ‘Draft Articles’),¹⁹³ and to establish statelessness determination procedures, and other measures¹⁹⁴.

- **Department of International Law:**

The OAS Department of International Law (DIL) organized a Course on “Essential Elements for the Identification, Protection, Prevention and Reduction of Statelessness in the Americas, which took place in Washington DC on 12 February 2015.¹⁹⁵

In addition, the DIL organized the XLII (2015),¹⁹⁶ XLIII (2016),¹⁹⁷ XLIV (2017)¹⁹⁸ editions of the “Course on International Law”, that included a thematic area on statelessness.

Lastly, in April 2017, the DIL, in its capacity as Technical Secretariat of the IAJC, presented the “Guide on the Protection of Stateless Persons” to the Committee on Juridical and Political Affairs of the Permanent Council of the OAS and reported on the adoption of UNHCR’s “Draft Articles”.¹⁹⁹

6.3.2. MERCOSUR

In March 2016, in the framework of the “XXXVIII Meeting of Interior and Security Ministers of MERCOSUR and Associated States”, the CONAREs met and discussed regional progress toward the eradication of statelessness.

In June 2017, MERCOSUR and UNHCR signed a memorandum of understanding on international technical cooperation in which they agreed to promote the accession to the statelessness conventions, as well as actions to prevent and end statelessness in the region, within the framework of the #IBelong campaign.²⁰⁰

6.3.3. Latin American and Caribbean Council of Civil Registry, Identity and Vital Statistics (CLARCIEV)

In October 2015, the Latin American and Caribbean Council of Civil Registry, Identity and Vital Statistics (CLARCIEV, in Spanish) held its XII Annual Meeting “Consolidating a Strategic Plan for a Model of Identity Management in

192 OAS Inter-American Juridical Committee, “Annual Report of the Inter-American Juridical Committee to the General Assembly (2015)”, Report (Rio de Janeiro, Brazil, September 8, 2015).

193 Supra note 142.

194 OAS Inter-American Juridical Committee, “Guide on the Protection of Stateless Persons,” Report (Rio de Janeiro, Brazil, August 2015).

195 OAS Statelessness Course available at http://www.oas.org/en/sla/dil/statelessness_courses.asp

196 OAS XLII Course on International Law (2015) available at: http://www.oas.org/en/sla/dil/XLII_course_on_international_law_2015.asp

197 OAS XLIII Course on International Law (2016) available at: http://www.oas.org/en/sla/dil/XLIII_course_on_international_law_2016.asp

198 OAS XLIV Course on International Law (2017) available at: http://www.oas.org/en/sla/dil/XLIV_course_on_international_law_2017.asp

199 Presentation Of The Guide For The Protection Of Stateless Persons, April 2017, available at: http://www.oas.org/en/sla/dil/newsletter_Guide_Protection_Stateless_Persons_Apr-2017.html

200 UNHCR and Common Market Group (GMC) MERCOSUR, “Memorandum of Understanding between the Common Market of the South (MERCOSUR) and the Office of the United Nations High Commissioner for Refugees (UNHCR) on International Technical Cooperation”, MERCOSUR / GMC / RES. N° 11/17 (2017), <http://www.refworld.org/es/docid/5a033abb4.html>

the Region”,²⁰¹ in Paraguay. This meeting concluded with the adoption of the Declaration of Asunción,²⁰² which promotes the right to identity as a human right and aims to support initiatives and projects to strengthen civil registries in the region.

During the Inter-American Identity Week, held in Mexico City, on 27-30 September 2016, three key meetings were held: the XIII Meeting of CLARCIEV, the Third Regional Conference of Latin America and the Caribbean on the Right to Identity and Universal Birth Registration, and the First Meeting of Ministries and National Authorities on the Right to Identity.²⁰³ The outcome of the meeting was the adoption of the Declaration of Identity expressing the need to strengthen and facilitate access to civil registries.

The XIV CLARCIEV annual meeting, held in Buenos Aires in November 2017, addressed the issue of digital identity. Countries adopted a Final Declaration in which they recognized that statelessness constitutes a violation to the human right to a nationality, enshrined in Article XIX of the “American Declaration of the Rights and Duties of Man” and Article 20 of the American Convention on Human Rights. They also agreed to work to eliminate all barriers that may lead to situations of statelessness.²⁰⁴

6.3.4. The ANA Network

The “Americas Network on Nationality and Statelessness” (*Red Ana*, for its acronym is Spanish), is a network of civil society organizations, academic initiatives and independent experts committed to the issue of statelessness in the Americas, with the objective of cooperating with States to strengthen international protection mechanisms. The network also aims to raise awareness about the situation of statelessness in the Americas, to identify affected persons in the region and to advocate for the recognition and respect of the rights of stateless persons. To this end, the ANA Network is engaged in the exchange of practices and information on statelessness to consolidate a network that can better defend the human rights of stateless persons.²⁰⁵



9 year old Roy Miranda Martínez has a plan: “The day I get my papers (birth certificate), I want to apply for a grant and go to school – just as my brothers. This brings a lot of joy.” © UNHCR/Lucas Iturriza

201 CLARCIEV Meeting “Consolidating a Strategic Plan for a Model of Identity Management in the Region” available at: <http://registrocivil.gov.py/clarciev/> and <http://clarciev.com/es/finalizo-el-xii-encuentro-clarciev-en-asuncion-paraguay/>

202 CLARCIEV. Declaration of the City of Asunción, Paraguay: Consolidating a Strategic Plan for an Identity Management Model. October 9, 2015 available at: <http://www.clarciev.com/cms/wp-content/Declaracion-Asuncion-2015.pdf>

203 InterAmerican Identity Week (2016), available at: <http://clarciev.com/es/evento/semana-identidad/>

204 XIV Assembly Meeting of CALRCIEV Member States, “Identity as a Cornerstone of a Comprehensive Strategy for Digital Governance”, Buenos Aires Argentina, 10 November 2017, available at: <http://clarciev.com/site/wp-content/uploads/2017/11/Declaratoria-y-Acta-del-XIV-Encuentro-CLARCIEV.pdf>

205 Americas Network on Nationality and Statelessness, available at: <http://www.americasns.org>

6.4. Challenges identified in the regional and thematic Consultations

Despite the progress made, during the regional and thematic Consultations, participants identified the following challenges with respect to prevention, protection and resolution of statelessness cases:

6.4.1. *With respect to prevention*

- Although diminished, cases of under- registration of birth still persist in the region;
- Lack of parents' awareness on the importance of registering their children, especially in the Caribbean region;
- The need to implement creative and flexible procedures (reduction of costs and time) to ensure the universality of birth registration and to train relevant authorities as well as to improve the inter-institutional and bi-national coordination;
- The persistence of challenges related to gender-based discrimination in nationality laws that may lead to statelessness or risk of statelessness, and the need to align national policies with international standards on prevention of statelessness and human rights;
- Other concerns are related to gaps in regulatory frameworks on nationality and the persistent challenge of the residence requirement for the children of nationals born abroad in order to acquire nationality by consanguinity.

6.4.2. *With respect to protection*

- The importance of conducting mappings of stateless persons or at-risk of statelessness, as well as promoting information campaigns to regularize the situation of stateless persons.

6.4.3. *With respect to reduction and resolution*

- The need of granting documentation that proves nationality, free of charge and without legal or practical obstacles, nor greater requirements.

6.5. Priorities

6.5.1. *With respect to prevention:*

- Promote the accession to or ratification of the 1961 Convention on the Reduction of Statelessness, without reservation;
- Review and align nationality laws with international standards on the prevention of

statelessness and human rights in general, with particular attention to: (i) the elimination of gender-based discrimination; (ii) the acquisition of nationality of children born within the territory who would otherwise be stateless, and (iii) the elimination of the residency requirement for the acquisition of nationality in the case of children of nationals who are born abroad;

- Adopt a restrictive interpretation of the concept of ‘foreigner in transit’ and a broader one on the concept of ‘domicile’ in the acquisition of nationality by birth in the territory (*ius soli*);
- Promote universal birth registration, including late birth registration, through specific measures, such as mobile brigades units that reach the isolated and rural areas of the countries.

6.5.2. *With respect to protection:*

- Promote accession to or ratification of the 1954 Convention relating to the Status of Stateless Persons, without reservations;
- Establish fair and efficient statelessness determination procedures as well as regulatory protection frameworks based on the “Draft articles on the Protection of Stateless Persons and the Facilities for their Naturalization”, developed by the UNHCR (2017);
- Improve quality and quantity data on stateless populations or persons at-risk of statelessness across the region, with special emphasis on Caribbean countries.

6.5.3. *With respect to resolution:*

- Implement procedures and effective systems to confirm nationality, such as late birth registration, including the possibility to process it from abroad;
- Establish effective procedures to facilitate the naturalization of stateless persons as well as of stateless refugees;
- Ensure the restitution of nationality and in the cases where the person was arbitrarily deprived of it, the restitution must be in accordance with international and regional human rights standards;
- Ensure the issuance of nationality documents in the acquisition, confirmation and restitution of nationality.

Section VII

REGIONAL COOPERATION

7. Regional cooperation

7.1. Reference to the BPA

In Chapter 8, the BPA reaffirms the importance of enhancing and consolidating regional integration and encourages deepening levels of coordination, complementarity, cooperation and convergence among regional and sub-regional integration mechanisms, in particular between Latin American and Caribbean countries (South-South cooperation). Moreover, it promotes the strengthening of national and regional civil society networks, including academics, to carry out research and to exchange good operational practices.

7.2. Progress made

This triennial evaluation of BPA has given new impetus to regional cooperation and solidarity, through the regional and thematic Consultations that it triggered. The following progress was made in the area of regional cooperation:

- A regional coordination mechanism was created among the Presidents of the National Eligibility Commissions for the MERCOSUR and Associated States;²⁰⁶
- Periodic meetings of the Mesoamericans National Commissions for Refugees are carried out

²⁰⁶ See § 2.3.

in the framework of the cooperation agreement between SICA and UNHCR,²⁰⁷

- The rollout of UNHCR PRIMES to improve collaboration between civil society, UNHCR and government actors in the actual provision of protection services;²⁰⁸
- The CLARCIEV Civil Registry Offices in 2017 addressed statelessness issues;²⁰⁹
- The Regional Conference on Migration (RCM) acknowledged advancements of responsibility sharing in migration management that were achieved at regional level²¹⁰ and recognized the importance of the GCR and committed to adopt a comprehensive approach on migration issues, in the spirit of the 2016 New York Declaration on Refugees and Migrants.²¹¹

The Regional Conference on Migration

The Regional Conference on Migration (RCM) acknowledged advancements of responsibility-sharing in migration management that were achieved at regional level. This progress reflects efforts to the benefit of migrants and refugees by establishing strategies that promote cooperation among RCM Member Countries, through the creation and strengthening of bilateral and multilateral alliances.²¹² The RCM also recognized the importance of the GCR and committed to adopt a comprehensive approach on migration issues, in the spirit of the New York Declaration.²¹³ In addition, the RCM established a regional network of government officials to liaise on the protection of migrant and refugee children and adolescents to promote the implementation of standards and guarantees of access to the asylum procedure and the determination of their best interest. The network supported the drafting and approval of the ‘Regional Guidelines for the Comprehensive Protection of Boys, Girls and Adolescents in the Context of Migration’.

- The OAS General Assembly endorsed the BPA and the UNHCR Global Action Plan to end statelessness, and called upon States to implement its actions.²¹⁴ The OAS also endorsed the follow-up on the evaluation of progress made at national and regional level in the implementation of the MIRPS through annual meetings.
- The above mentioned MIRPS process (including, Belize, Costa Rica, Guatemala, Honduras, Mexico and Panama) represents a regional platform to identify good practices,



North and Central Americas countries pledged to strengthen protection measures for asylum-seekers, internally displaced and refugees during the regional conference in Honduras. © UNHCR/Scarleth Durón

207 See § 2.3.

208 See §2.3.

209 See above, § 6.2.3.

210 XXI Regional Conference on Migration (RCM): Migration and shared responsibility, 18.11.2016.

211 Special Declaration on GCM, RCM, 29.11.2017.

212 XXI Regional Conference on Migration (RCM): Migration and shared responsibility, 18.11.2016.

213 Special Declaration on GCM, RCM, 29.11.2017.

214 OAS, General Assembly, “Promotion and protection of human rights” Resolution AG / RES. 2908 (XLVII-O / 17) (2017).

challenges, and concrete commitments through national action plans in light of the objectives of the 2016 New York Declaration on Refugees and Migrants and as a regional model for and/or application of the CRRF. In addition, ten cooperating States have also committed to actively support its implementation, through financial assistance and technical cooperation in identified areas, including four States from South America, as an example of South-South cooperation.²¹⁵

- The Caribbean Migration Consultations (CMC), is per se an emblematic achievement, encouraging cooperation among Caribbean countries. Regional cooperation in the Caribbean was also fostered through the periodic meetings of Chief Immigration Officers and other initiatives related to CARICOM and CARICOM IMPACS.²¹⁶
- In November 2017, UNHCR signed a memorandum of understanding with MERCOSUR to promote international refugee law, consistency with international protection instruments, regional cooperation and responsibility-sharing mechanisms, as well as the implementation of joint activities for the protection of refugees and other displaced people and stateless persons.
- Several regional networks of academia, legal clinics and other civil society organizations were created.

Regional Protection Networks

- The creation of the Americas Network on Nationality and Statelessness (Red Ana) of academia, legal clinics, and other civil society organizations, working to protect stateless persons.²¹⁷
- The Americas Network for Refugee Legal Aid (ANRLA): The ANRLA was established in partnership with the Inter-American Institute of Human Rights, and with the participation of civil society organizations, including legal clinics, ombudsmen's offices, civil society organizations and legal practitioners.²¹⁸
- The revamping of the Americas Chapter of the International Association of Refugee and Migration Judges (IARMJ).²¹⁹
- The establishment of the Regional Safe Spaces Network (RSSN), for the disclosure of SGBV and other protection incidents and the promotion of standardized services along the displacement cycle. The RSSN facilitates detection of special protection needs promoting access to adequate protection and multi-sectorial services for survivors of sexual and gender-based violence, children and LGBTI persons at risk and other affected individuals.²²⁰
- The creation of a specialized sub-group under the ANRLA's umbrella of academics working on the MIRPS, called the GREAT MIRPS network.

215 See above, § 4.2.

216 See above, § 5.1.1.

217 Red Ana. (2015). Annual Report 2015, available at: <https://static1.squarespace.com/static/55eb3459e4b021abebfec2bd/t/570b76937da24f23ceb893e4/1460369068335/Informe+Anual+Red+ANA+2015>

218 See § 2.3.

219 International Association of Refugee and Migration Judges, Americas Chapter, available at: <https://www.iarji.org/regional-chapters/americas-chapter>

220 See § 8.1.2 (Box) and § 8.3.2.

- A Memorandum of Understanding was signed in May 2015 between the IPPDH, MERCOSUR States and Associated countries and UNHCR. A work plan was also agreed to support the BPA. UNHCR also signed a Memorandum of Understanding for cooperation with MERCOSUR during the second semester of 2017, which aimed at the elaboration of indicators for the evaluation of the different Chapters of the BPA. This partnership turned into a very good basis for national consultation processes, and led to the appropriation of the process by MERCOSUR through the validation by the Meeting of CONAREs.

7.3. Priorities as resulted from regional and thematic Consultations

The regional and thematic Consultations identified the enhancement of regional cooperation's efforts as a key priority, especially as it concerns countries of origin, transit and destination, including spaces for sharing good practices and information, to articulate coordinated and comprehensive responses to meet the needs of refugees and asylum seekers, as well as to improve concerted response strategies for mixed migration flows, including displacement due to natural disaster. In particular, it was emphasized the need to:

- Enhance regional, sub-regional and bi-national cooperation including between countries of origin, transit and destination, UNHCR and persons of concern, to find prompt and adequate solutions. Enhance cooperation, dialogue and information-sharing between Latin America and the Caribbean;
- Leverage existing regional forums to enhance regional cooperation. Enhance international asylum support through capacity support groups, especially with respect to international protection;
- Strengthen existing platforms to foster information sharing and best practices, as well as collaboration and networking at regional level to address challenges related to refugee protection;
- Keep promoting study visits and exchanges among national authorities, to understand and learn from other jurisdictions and asylum systems under twinning projects;
- Promote dialogue and cooperation to take concrete and coordinated steps in enhancing protection-sensitive entry mechanisms, with differentiated case processing and procedures and multi-stakeholders task-forces to manage mixed migration movements and large scale displacement through a human rights-based approach, especially in the Caribbean;
- Enhance regional cooperation within the QAI program, jointly working together towards regional harmonization of asylum procedures;
- In particular, in the Caribbean region, enhance cooperation to harmonize and develop common human-rights-based SOPs for border management, and asylum systems, including RSD procedures;
- Within the framework of South-South cooperation and responsibility sharing, diversify among

the various resettlement possibilities, including the PTA;

- Support the development of regional networks of “Cities of Solidarity” to share good practices of urban refugee protection;
- Encourage Latin American and Caribbean States to make joint complementary efforts in preventing and reducing statelessness, through bilateral and multilateral cooperation, to reach the goal of being the first region in the world to become a territory free of statelessness by 2024, and thus representing a worldwide model to eradicate statelessness.

MANAGEMENT OF SPECIAL PROTECTION NEEDS

8. Management of special protection needs

8.1. Reference to the BPA

The BPA underlines progressive advances made by incorporating high standards of protection into national legislation with an age, gender and diversity approach. In its first chapter, the Plan recognizes particularly vulnerable groups that stand out in mixed migratory contexts: SGBV survivors, LGBTI individuals, persons with disabilities, older people, indigenous people, people of African descent or other vulnerable persons such as pregnant women and children, both accompanied and unaccompanied.²²¹

8.2. Prevention and response to SGBV

Concerning the prevention and response to SGBV, States agreed to continue advancing in the implementation of strategies to promote safe and dignified access to asylum and protection for survivors of SGBV, as well as in the development of effective case management and referral systems with due consideration to specific programs under a human rights umbrella and in accordance with a community-based approach. Some important achievements towards this goal include:

²²¹ BPA, 3 December de 2014, pp. 1 and 8, available at: <http://www.acnur.org/fileadmin/scripts/doc.php?file=fileadmin/Documentos/BDL/2014/9865>

8.2.1. Promoting safe and dignified access to asylum and protection for survivors of SGBV

Some States have reviewed asylum and relevant legislation and practice during the last years to incorporate sexual and gender-based persecution as legal ground or interpretative criteria for the recognition of refugee status (**Mexico**)²²² (**Panama**).²²³

In parallel, some States established specific safeguards in RSD procedures to promote safe and dignified access to survivors of SGBV to the RSD process (**Guatemala**).²²⁴ Some of the safeguards and measures include the right to choose the sex of the interviewer and interpreter or the right to receive psychological and medical support throughout the process (**Ecuador**).²²⁵

8.2.2. Improving SGBV case management and referral mechanisms along the displacement cycle.

Some countries have established protocols and standardized operating procedures sensitive to the psychological needs of SGBV survivors to facilitate detection and service referrals for their care by authorities or other agencies specialized in case management and multi-sectorial service provision in accordance with survivor-centered and age, gender and diversity approaches.

Several countries prioritized survivors of sexual and gender-based violence in the implementation of the PTA to facilitate their access to international protection in third countries, while ensuring the application of confidential and caring procedures within a highly insecure context (**Honduras, El Salvador, and Guatemala**).²²⁶

Regional Safe Spaces Network (RSSN)

The RSSN was established in the Americas to facilitate disclosure of SGBV, Child Protection and other serious protection incidents, and ensure access of individuals at risk and survivors to standardized case management and multi-sectorial services along the displacement cycle across countries in the region. At present the RSSN has more than 50 members including national institutions, UN and other international agencies, civil society, and community volunteer networks working in five countries in the Americas. They work together to respond to the needs of vulnerable people in a harmonized manner (**Mexico, Guatemala, Costa Rica, Venezuela and Colombia**).²²⁷ The Network is expected to continue to expand to other countries depending on displacement trends.

222 Decreto que reforma la ley sobre refugiados, protección complementaria, y asilo político 2011, reformada en 2014, available at: <http://www.acnur.org/fileadmin/scripts/doc.php?file=fileadmin/Documentos/BDL/2014/9794>

223 Executive Decree No5, 2018, Panama, available at: <http://www.acnur.org/fileadmin/scripts/doc.php?file=fileadmin/Documentos/BDL/2018/11494>

224 Decree No 44, 2016 Guatemala <http://www.acnur.org/fileadmin/scripts/doc.php?file=fileadmin/Documentos/BDL/2017/10978>

225 Organic Law on Human Mobility, supra note 42.

226 See §4.2.2.

227 Regional Update-Americas. Executive Committee High Commissioner's Programme Sixty-eighth session Geneva, 2-6 October 2017, available at: <http://www.unhcr.org/59c288587.pdf>

8.3. Child Protection

Similarly, when adopting the BPA, States agreed to promoting the assessment of the protection needs of accompanied and unaccompanied children and adolescents, including their access to RSD procedures, and emphasized that any consideration in this area must be governed by the principles recognized in the Convention on the Rights of the Child, in particular the best interests of the child and non-discrimination, seeking to respect family unity and recognizing children as subjects of rights and entitled to special protection.²²⁸



Visit of UNHCR Staff to Peruvian Republic of Peru School in Tegucigalpa, Honduras. UNHCR is working with schools in Honduras to identify and mitigate the risk factors for teachers and student. Gang threats have caused an increasing number of students and teachers to request transfers from schools in Honduras. © UNHCR/Santiago Escobar-Jaramillo

The BPA makes express reference to the standards established by the Advisory Opinion of the Inter-American Court of Human Rights AO 21/14 on the rights and guarantees of girls and boys in the context of migration and/or in need of protection, aimed at prohibiting the deprivation of liberty of children in transit.²²⁹ This goal includes:

8.3.1. Strengthening safe and age appropriate access to asylum procedures

A number of States have reviewed refugee and other relevant legislation and practice during the last years to ensure the consideration of the best interests of the child in migration and refugee status determination procedures and the implementation of special safeguards for their effective protection throughout the process. These safeguards are referred to the right of children to be accompanied and assisted by their parents, caregivers or child welfare officer during the RSD interview (**Panama**).²³⁰

Special attention to the registration of refugee children

As part of differentiated case processing, **Panama** reviewed the registration form and created a specific child-friendly version for refugee children and the National Office for Assistance to Refugees (ONPAR, for its acronym in Spanish) staff was specifically trained on interview techniques with children. A protocol between the child protection authority (SENNIAF-for its acronym in Spanish) and ONPAR, for identification and referral, was finalized, although yet pending signature.

²²⁸ Brazil Declaration and Plan of Action, *supra* note 2, p. 4.

²²⁹ *Ibid.*, p. 5.

²³⁰ Executive Decree No5, 2018, Panama <http://www.acnur.org/fileadmin/scripts/doc.php?file=fileadmin/Documentos/BDL/2018/11494>

Some countries developed national protocols to guarantee the implementation of special safeguards in the processing of child asylum claims, with particular emphasis to unaccompanied and separated children (**Argentina, Brazil and Costa Rica**, among others).

8.3.2. Strengthening Best Interest Procedures in asylum and migration procedures

In line with the Advisory Opinion of the Inter-American Court of Human Rights AO 21/14, some countries have prohibited child detention on the basis of migratory grounds. In addition, some legislation extends this prohibition to the p of children who would otherwise become unaccompanied (**Ecuador**).²³¹

Regional Workshop on Best Interest Procedures in migration and asylum contexts²³²

In the context of the Regional Conference on Migration²³³ for the first time after the adoption of the BPA, national institutions working on Child Protection, gender equality and asylum gathered in **San Salvador (El Salvador)** to discuss with UNHCR, other UN agencies, civil society and other partners strategies and tools to improve the procedures to evaluate and determine the best interests of refugee and migrant children survivors of violence. The sixty participants from eleven countries developed joint plans to be implemented by a diverse range of actors, promoting a multi-sectorial fora comprehensive assessment of the needs and capacities of vulnerable children. The country representatives attending the workshop expressed their commitment to expanding the existing network of government officials and professionals from different sectors working with refugee and migrant children at the regional and national level in the coming years.

8.4. Respect for diversity and non-discrimination



Electra and LGBTI refugee from Honduras hanging up the rainbow flag at the LGBT module at La 72 migrant shelter in Tenosique, Tabasco, Mexico. © UNHCR/Markel Redondo

The BPA refers to the special vulnerability of individuals with diverse sexual orientation and gender identity (also known as LGBTI persons), as well as of indigenous people, and Afro-descendants, since in its second Chapter it emphasizes the need to include a gender, age and diversity approach in protection strategies and responses, adopting or revising internal regulations to incorporate the standards of international refugee law and human rights.

231 Organic Law on Human Mobility, supra note 42.

232 Workshop on the Best interest of the Child, El Salvador 2017.

233 Regional Conference on Migration, available at: <http://www.crmv.org/en/about-us/member-countries>

8.4.1. Promoting Safe and dignified access to the refugee status determination process

A number of States have reviewed asylum and relevant legislation and practice during the last years to incorporate non-discriminatory provisions in relation to applicants with a diverse sexual orientation or gender identity (**Panama**).²³⁴ Non-discriminatory provisions have been also incorporated in migration policies (**Peru**)²³⁵ and trafficking related regulations (**Brazil**).²³⁶

Moreover, some States have established specific safeguards to prevent the return of LGBTI people to places where they could be persecuted on the basis of their sexual orientation or gender identity (**Ecuador**).²³⁷

8.4.2. Improving access to human rights, protection and services

Some countries decriminalized same sex consensual relations among adults preventing persecution of refugees in the country of asylum. In **Belize** the Supreme Court declared unconstitutional the existing sodomy law.²³⁸

Inter-American Court of on Human Rights

Following the petition of **Costa Rica**, the IACHR addressed the rights of LGBTI people to a family and to the recognition of their identity. On January 9, 2018, the Inter-American Court of Human Rights (IACtHR), published an advisory opinion holding that Member States of the American Convention on Human Rights have an obligation to permit transgender individuals to change their name and gender on identity documents, to recognize same-sex marriage, and to ensure family rights of those in same-sex relationships.²³⁹

The Regional Safe Spaces provided specialized services for LGBTI adults and children who fled from violence and persecution. Some shelters adapted their services to prevent harassment and discrimination of LGBTI people in transit to the asylum country. Near the border between **Mexico** and **Guatemala** several shelters developed and piloted innovative service provision modalities that consider the diverse needs of individuals.²⁴⁰

Several countries prioritized LGBTI people at risk for the implementation of the PTA to facilitate their access to international protection in third countries (**El Salvador, Guatemala** and **Honduras**).

234 Executive Decree No5, 2018, Panama, available at: <http://www.acnur.org/fileadmin/scripts/doc.php?file=fileadmin/Documentos/BDL/2018/11494>

235 Decree No 015-2017 on Public Migration Policy available at: <http://www.acnur.org/fileadmin/scripts/doc.php?file=fileadmin/Documentos/BDL/2017/11191>

236 Law 13344, 2016 on prevention and suppression of trafficking of domestic and international human trafficking, available at: http://www.planalto.gov.br/ccivil_03/_Ato2015-2018/2016/Lei/L13344.htm

237 Organic Law on Human Mobility, supra note 42.

238 The Supreme Court of Belize A.D. 2016 Claim No 668 of 2010, available at: <http://www.belizejudiciary.org/web/wp-content/uploads/2016/01/Supreme-Court-Claim-No-668-of-2010-Caleb-Orozco-v-The-Attorney-General-of-Belize-et-al1.pdf>

239 Advisory Opinion 24/17 on gender identity, equality and non-discrimination of same sex couples, available at: http://www.corteidh.or.cr/docs/opiniones/seriea_24_esp.pdf

240 Mexican shelter welcomes LGBTI refugees 2017, available at: <http://www.unhcr.org/news/stories/2017/8/599e827e4/mexican-shelter-welcomes-lgbti-refugees.html>

8.5. Challenges discussed during the regional and thematic Consultations

Despite the progress made, regional and thematic Consultations identified the following challenges in terms of prevention, protection and solutions for SGBV survivors, children at risk and people with diverse backgrounds.

8.5.1. *With respect to prevention and response to SGBV*

With respect to the incorporation of gender persecution as a ground for RSD, it is unclear to what extent survivors of SGBV are actually being granted protection on this basis. Other grounds such as violence under the Cartagena Declaration or the application of derivative status were usually applied instead. In these cases, survivors of intimate partner violence (IPV) face greater challenges to access protection.

Concerning access to specialized case management and referrals to multi-sectorial services, coordination between different institutions, service providers, civil society and other actors remain a challenge. The increasing mobility of people fleeing violence and other forms of persecution throughout the region hinder access to protection along the displacement cycle.

High turnover of government officials and protection personnel makes it difficult in practice to develop the capacity and raise the quality of service provision in accordance with a survivor-centred approach. Furthermore, allocation of limited resources to SGBV prevention and response, diminish the ability of States to provide specialized services. People with disabilities and indigenous populations face greater challenges to access services.

Gender inequality and discrimination exposes women and girls to sexual exploitation and abuse during flight. Border-crossing points and migrant shelters continue to be high-risk areas.

8.5.2. *With respect to Child Protection*

Persistent gaps in alternative care and family reunification systems in Latin America significantly impact the ability of States to guarantee the right to family unity of refugee, returnee and stateless children. Detention and shelter solutions continue to be the norm instead of the exception.

Despite the positive legal developments at national and regional level, States continue to face challenges to apply child's best interest procedures in migration and asylum-related processes, including refugee status determination, returns and detention of children and their family members.

Strengthen coordination between different institutions and service providers remain key to continue advancing towards the implementation on high protection standards for children.

Refugee and other children on the move face considerable challenges to access education throughout the displacement cycle. Relevance of education modalities and curriculum, certification and homologation of studies are some of the main issues to tackle.

8.5.3. With respect to diversity and non-discrimination

Many Latin American countries have developed laws or policies to facilitate access to asylum and protection for people with disabilities, indigenous people and LGBTI refugees, returnees and stateless. However, the implementation of effective protection systems could be strengthened. This may include adapting existing protection services and creating new ones, while promoting respectful reception and admission procedures.

Linked to the above, it will be important to develop the capacity of the staff responsible for the provision of public protection services on the human rights of diverse groups, as well on effective and respectful communication and other skills required to evaluate and respond to the needs of people from diverse backgrounds.

In order to promote access to asylum and protection it will be necessary to develop registration forms and identity documents able to collect personal data in accordance with age, gender and diversity. This will be instrumental for the implementation of effective case management interventions as well as for the identification of trends analysis for program planning purposes.

8.6. Priorities

The following priorities were identified during regional and thematic Consultations:

- Avoid child detention and encourage the establishment of alternative family care systems;
- Promote policies for the early identification of risks, which ensure the principle of the benefit of the doubt in cases where the age of the child concerned cannot be determined;
- Ensure the participation of children in all relevant processes, and treat them as the principal applicant for protection purposes;
- Promote the inter-institutional collaboration of all relevant bodies, involved in the protection of children, women and other SGBV survivors, promoting coordination among key institutions and Civil Society Organizations to ensure adequate response, based on the different needs of the individual;
- Ensure that the staff involved at all RSD stages are trained and sensitized on differentiated needs related to child protection, SGBV survivors, and persecution based on sex, sexual orientation and gender identity;
- In relation to gender-based persecution, pay special attention to cases of domestic violence, ensure free legal advice and access to justice for women in need of international protection, and are compelled to leave their country of origin with their children, even in those cases where they do not have the legal authorization of the father;
- Tailor national regulations in order to include persecution based on gender, sexual orientation or gender identity as a ground for obtaining refugee status.

Section IX

CONCLUSIONS: MOVING FORWARD

9. Conclusions: Moving forward

9.1. Taking stock

The BPA evaluation process has created momentum and facilitated an enabling environment for further legislative and policy reform, based on identified priorities. The BPA road map remains an essential tool to gauge enhancement in the asylum and protection frameworks at regional level.

9.1.1. Harnessing achievements

The triennial assessment of the BPA revealed very good, although diversified, trends in the evolution of the asylum systems in the region, both in terms of protection and solutions strategies, with significant achievements towards the eradication of statelessness and positive developments in terms of regional and sub-regional cooperation.

Based on the assessment, more than thirty States and overseas territories in Latin America and the Caribbean have taken steps - although at differentiated pace and levels - to respectively improve, consolidate, or progressively establish asylum systems and implement the BPA recommendations.²⁴¹ Achievements relate to one or more of the six areas and eleven programs set out in the BPA in the protection of and solutions for refugees, asylum seekers, displaced, returnees and stateless persons

²⁴¹ The following countries were mentioned in the current Report: Antigua and Barbuda; Argentina; Aruba; Bahamas; Belize; Bolivia; Brazil; Cayman Islands; Chile; Colombia; Costa Rica; Cuba; Curaçao; Dominican Republic; Ecuador; El Salvador ; Guatemala; Guyana; Haiti; Honduras; Jamaica; Mexico; Nicaragua; Panama; Paraguay; Peru; Sint Maarten; Suriname; Trinidad and Tobago; Turks and Caicos; Uruguay; Venezuela.

in the region. Efforts that countries have made and the results achieved are to be harnessed to move forward in the next years.

According to the analysis carried out, areas of major achievements refer to:

- New legislations and reforms in migration laws that include improved human-rights-based asylum system procedures;
- The grant of complementary protection and humanitarian visas for those who do not apply for asylum or do not qualify as refugees, but still need international protection, including the enactment of measures to protect people affected by natural disaster;
- The establishment of Standards Operating Procedures regarding matters of refugee protection in the absence of asylum legislation, particularly in the Caribbean;
- Improvements in the identification, registration, and referral mechanisms, including early identification of vulnerabilities, such as unaccompanied or separated children, women at high risk, SGBV survivors, victims of trauma and human trafficking, and LGBTI individuals;
- The expansion, institutionalization and effective implementation of the QAI program and the positive developments in the management of special protection needs, including through an age, gender and diversity approach;
- Reforms in nationality laws, including the elimination of gender based discrimination and the elimination of requirements that hinder the acquisition of nationality; concrete measures to prevent and reduce statelessness and to protect stateless persons, in particular in relation to universal birth registration and late registration. Six countries acceded to or approved accession to one or both Conventions on Statelessness;
- Developments in granting non-discriminatory documentation that ensures access to employment, health, education and social security, especially for asylum seekers, with facilitated process toward permanent residence and naturalization. The issuance of travel documents, in compliance with ICAO regulations.
- Solidarity resettlement initiatives, for Syrians and persons from NCA, and the Protection Transfer Agreement;
- Initiatives and programs that strengthened regional cooperation, including state-led twinning programs; enhanced sub-regional cooperation, in particular in the Caribbean through the CMC and in the NCA through the MIRPS.

9.1.2. Acknowledging common challenges

During the evaluation process, in particular in regional and thematic Consultations, participants highlighted key persisting challenges and concerns that have an impact on the effective implementation of the BPA. The challenges identified are multifold and refer to shortcomings at legislative, political, technical and operational levels, compounded by ever-increasing levels of mixed migration movements.

The multifold nature of challenges

- Legislative level: comprehensive human-rights-based asylum systems
- Political level: regional cooperation and burden-sharing, inter-institutional and inter-sectorial coordination, awareness raising
- Technical level: data collection, capacity building (technical skills)
- Operational level: Funds and resources

In particular common challenges relate to the following:

- Asylum seekers are facing increasing restrictive practices in terms of access to territory and asylum procedures; individuals fleeing persecution and violence that enter the asylum stream represent only a fraction of those who may still be in need of international protection. It remains unclear to what extent survivors of SGBV are actually being granted protection on this basis. Border-crossing points continue to be high-risk areas. Gender inequality and discrimination exposes women and girls to sexual exploitation and abuse during flight;
- Difficulties persist in the identification of those in need of international protection, including possible victims of trafficking, unaccompanied or separated children, within mixed migratory flows. States continue to face challenges to apply child's best interest procedures in migration and asylum related processes. The criteria for identification and definition of "accompanying adults" remain unclear. Limited participation of Civil Society in children RSD to ensure children are treated as principal applicants;
- Some countries have been developing alternative legal pathways to ensure admission and stay for persons in need of international protection. These alternative paths ensure immediate physical protection, but do not necessarily ensure the quality of protection in terms of access to rights, particularly in the longer-term;
- Concerns were raised about the delays in the proceedings, which, coupled with high costs, cause an increase in the abandonment of the application. In several countries the role of registration units remains marginal with poor coordination in the management of cases;
- Notwithstanding that local integration remains a milestone for the region, concerns persist with regard to documents for asylum seekers, as most of the time these are not officially recognized and do not grant access to rights and services, and in particular to the labor market, which hampers access to income-generating activities. Stigmatization and discrimination associated with the migratory status remain a challenge for social and cultural integration;
- In the NCA, high levels of violence continue to pose many challenges and, despite some progress, the lack of reliable data and indicators to monitor the situation continues to be main issues to identifying solutions. Access to communities at high risk continues to be extremely difficult for those involved in the assistance to victims of violence. The on-going

arrival of returnees puts a strain to the already stretched institutional capacity for socio-economic reintegration;

- The Caribbean region, due to its vast and permeable maritime borders, is particularly vulnerable to significant migration flows. Caribbean countries are still working to establish consistent and harmonized asylum systems. Caribbean countries face a number of challenges in responding to the ever-increasing levels of displacement due to natural disasters, which exacerbate the already limited financial, human and material resources;
- Lack of awareness of the importance of birth registration as well as the difficulties in reaching out to remote rural areas jeopardize the universality of birth registration. This is coupled by difficulties in conducting mappings and in gathering data on persons that are stateless or at risk of statelessness. In addition, specific requirements (such as the residency requirement) and gender-based discrimination in nationality laws endanger the right to nationality;
- States have underscored the need to enhance regional cooperation to address risks of large-scale forced displacement. Cooperation between the Caribbean and South America remains sporadic and needs to be intensified along with regional responsibility-sharing mechanisms and multi-stakeholders partnerships. A common concern is related to the lack of adequate human, financial and technical capacity to ensure a comprehensive human-rights-based response to the escalation in the number of people compelled to flee their homes to seek protection.

Natural disaster displacement

An underpinning common concern relates to the management of out-flows due to natural disasters that, by nature, are unpredictable. It must be recalled that Latin America and the Caribbean are particularly exposed to devastating climate events that create displacement. One third of the population of Latin America and the Caribbean live in high-risk areas prone to natural disasters. Each year there are about seventy extreme climate events in Latin America and the Caribbean and seventy percent of emergencies in the region are climate-related, with an average of five million people affected.²⁴²



A damaged thatched-roof hut, strewn vegetation and scattered debris show the mess left behind by Hurricane Earl in a rural area of Armenia, Belize. The family that lives here are asylum-seekers, originally from Guatemala, who fled their country to seek refuge in Belize. © UNHCR/Brooke Del Greco.

242 Food and Agricultural Organization (FAO), Benefits of farm level disaster risk reduction practices in agriculture, June 2017, p.5, available at <http://www.fao.org/3/a-i7319e.pdf>

9.2. The way forward - Building blocks

Based on the state of play resulted from the assessment, and following-up the good practices highlighted, the following are building blocks towards the full BPA implementation.

9.2.1. Priorities with respect to Quality of Asylum

- Bring about reforms in legislation, regulation, and practices to include the adoption and implementation of the extended regional refugee definition, according to the recommendation of the 1984 Cartagena Declaration on Refugees. Progressively adopt national legislation and regulations on refugee protection enshrining the highest human rights standards, including an age-gender and diversity approach;
- Ensure respect for the right to seek asylum and allow immediate access to the territory and international protection. Promoting and recognizing the principle of the extraterritorial effect of refugee status determination, guaranteeing the respect of the principle of *non-refoulement*. Enact measures to protect people affected by natural disasters and climate change who are forced to leave their countries, as well as to grant them temporary protection, humanitarian visas, and subsidiary or complementary forms of protection;
- Promote the implementation of the QAI program as a fundamental holistic approach and as a practical guide to bring about systemic changes in the RSD process. Continue strengthening asylum capacity support through QAI and other state-led initiative, including expanding and reinforcing asylum authorities, facing ever-growing number of people in need of international protection;
- Implement tools and methods for early identification, registration and referral of persons in need of international protection through an inclusive and differentiated approach; increase immediate assistance, particularly at borders, to persons with specific protection needs, such as women at high risk, SGBV survivors and victims of trauma and trafficking. Foster better case management and security for asylum seekers, refugees and persons in need of international protection. Implement a differentiated approach to case management with accelerated procedures to provide protection in a faster and safer way and that prioritizes vulnerable cases, including those of people in detention;
- Reach out and involve specialized civil society actors who deliver support for asylum-seekers and refugees providing legal orientation, counseling and representation as key contributors to enhanced access to asylum.

9.2.2. Priorities with respect to Durable and Comprehensive Solutions:

- Ensure non-discriminatory documentation, without mention of migratory status, for both refugees and asylum seekers that grants full access to economic, social and cultural rights, including access to the labor market, education (including higher education), health and social protection, as well as to the banking and financial system;

- Promote inclusive, non-discriminatory and human rights-based integration policies and programs for refugees and asylum seekers. Encourage a multi-stakeholder approach to ensure effective integration strategies, including through public-private partnerships and inter-institutional cooperation, ensuring the participation of refugees, host communities, civil society and local municipalities;
- Foster durable solutions strategies based on inclusive economic growth, for both refugees and host communities, through a differentiated approach with an emphasis on special vulnerabilities and with meaningful participation and leadership of women and girls;
- Consolidate and expand resettlement programs, diversifying among the various resettlement possibilities according to the principle of responsibility and burden-sharing and within the framework of South-South cooperation, articulating solidary resettlement programs within the framework of UN 2030 Agenda.

9.2.3. Priorities with respect to the North of Central America:

- Encourage the International community to support the region through cooperation mechanisms that enable the effective implementation of the MIRPS, including concerted action of States, civil society, academia, the private sector and international bodies;
- Support the development and/or enhancement of registration systems for displaced persons and victims of violence in NCA countries ensuring the communication and inter-operability of systems managed by different State institutions;



A young Central American girl dancing at La 72 migrant shelter in Tenosique, Tabasco, Mexico. © UNHCR/Markel Redondo

- Enhance the identification procedures and assistance of returnees in need of protection to guarantee a comprehensive and inter-institutional response and cover their needs, including returnee’s children in the prevention and protection mechanisms in the communities concerned;
- Develop and implement an assistance and protection plan for reception, assistance and referral of cases of internally displaced persons, and strengthen the technical and financial capacities of relevant governmental Institutions, especially at borders;
- Intensify State presence in communities at risk, develop prevention and protection programs that are differentiated by risk causes and profiles.

9.2.4. Priorities with respect to the Caribbean

- Accede to relevant conventions as a priority, including the refugee and statelessness conventions. Develop and pass relevant legislation on refugee protection, as well as on issues related to statelessness;
- Enhance cooperation to harmonize and develop common human-rights-based SOPs for border management, and asylum systems, including RSD procedures. Promote regional dialogue and cooperation to take concrete and coordinated steps in enhancing protection-sensitive entry mechanisms, with differentiated case processing and procedures and multi-stakeholders task-forces to manage mixed migration movements and large scale displacement through a human rights-based approach;
- Institutionalize the CMC as a platform to promote, share, harmonize and shape asylum policies, best practices and common strategies in the region.

9.2.5. Priorities with respect to the Eradication of Statelessness:

- Continue working to prevent statelessness, protect stateless persons, and incorporate a solution-based approach into statelessness eradication strategies. Ensure that stateless migrants have access to facilitated naturalization, also through reforms of nationality law. Strengthen the positive cross-fertilization between Latin-American and Caribbean countries;
- Encourage Latin American and the Caribbean to make some complementary efforts in their legislative frameworks in preventing and reducing statelessness in order to reach the goal of being the first region in the world to become a territory free of statelessness by 2024, representing a worldwide model and leading the global goal to eradicate statelessness.

9.2.6. Priorities with respect to International and Regional Cooperation:

- Promote regional, sub-regional and bi-national cooperation’s efforts, especially among countries of origin, transit and destination, including regional capacity building and spaces for sharing practices and information, in order to articulate coordinated and comprehensive responses to meet the needs of refugees and asylum seekers. Improve

concerted response strategies for mixed migration flows, including displacement due to natural disaster.

- Enhance cooperation, dialogue and information-sharing between Latin America and the Caribbean;
- Increase efforts to support host countries and local communities in developing consistent responses and encouraging development actors to contribute with economic and human resources to guarantee sustainability and enhance international coordination;
- Leverage existing regional forums to enhance regional cooperation. Enhance international asylum support through capacity support groups, especially with respect to international protection. Create regional platforms, including digital platforms, for consultation, sharing information sharing and to share good practices on protection and solution mechanisms;
- Continue promoting study visits and exchanges among countries' authorities, to understand and learn from other jurisdictions and systems under twinning projects.

9.2.7. Priorities with respect to Management of Special Protection Needs:

- Promote policies for early identification of risks and inter-institutional collaboration of relevant bodies involved in the protection of children, women and other SGBV survivors;
- Train and sensitize staff involved at all stages of refugee determination processes on differentiated needs related to child protection, SGBV survivors, and persecution based on sex, sexual orientation and gender identity;
- Ensure the participation of children in the admissibility processes, as principle applicants and effectively apply the best interest of the child;
- Tailor national regulations in order to include persecution based on gender, sexual orientation or gender identity as a ground for obtaining refugee status. Pay special attention to women in need of international protection that flee from domestic violence with children without the legal authorization of the father and ensure free legal advice and access to justice.

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